



144858

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS

CERRO COPPER PRODUCTS,)
COMPANY,)

Plaintiff,)

vs.)

No. 92-CV-204-WDS

MONSANTO COMPANY and)
MONSANTO CHEMICAL COMPANY,)

Defendant.)

DEPOSITION OF PAUL E. TAKACS
Taken on behalf of Defendant
November 7, 1994

Reporter: Mary E. Walker, CSR/RPR No. 084-003322

POHLMAN
MORRIS

Reporting Company
Certified Shorthand Reporters

One Metropolitan Square, Suite 2320
St. Louis, Missouri 63102
Telephone 314-421-0099
Facsimile 314-421-1115

P.O. Box 40
Collinsville, Illinois 62234
Telephone 618-345-8335

I N D E X O F E X A M I N A T I O N

	Page
Examination by Mr. Ryder	4
Examination by Mr. Nolan	92

I N D E X O F E X H I B I T S

	Page
Deposition Exhibit Number 1	22
Deposition Exhibit Number 2	27
Deposition Exhibit Number 3	29
Deposition Exhibit Number 4	34
Deposition Exhibit Number 5	36
Deposition Exhibit Number 6	37
Deposition Exhibit Number 7	39
Deposition Exhibit Number 8	42
Deposition Exhibit Number 9	45
Deposition Exhibit Number 10	50
Deposition Exhibit Number 11	55
Deposition Exhibit Number 12	58
Deposition Exhibit Number 13	61
Deposition Exhibit Number 14	62
Deposition Exhibit Number 15	64
Deposition Exhibit Number 16	65
Deposition Exhibit Number 17	66
Deposition Exhibit Number 18	69
Deposition Exhibit Number 19	71
Deposition Exhibit Number 21	74
Deposition Exhibit Number 22	78
Deposition Exhibit Number 23	79
Deposition Exhibit Number 24	83
Deposition Exhibit Number 25	88
Deposition Exhibit Number 26	90
Deposition Exhibit Number 27	115
Deposition Exhibit Number 28	118

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE SOUTHERN DISTRICT OF ILLINOIS

3 CERRO COPPER PRODUCTS,)
4 COMPANY,)

5 Plaintiff,)

6 vs.) No. 92-CV-204-WDS

7 MONSANTO COMPANY and)
8 MONSANTO CHEMICAL COMPANY,))

9 Defendant.)

10 DEPOSITION OF PAUL TAKACS, produced,
11 sworn and examined on behalf of the Defendant,
12 November 8, 1994, between the hours of eight
13 o'clock in the forenoon and five o'clock in the
14 afternoon on that day, at the law offices of Coburn
15 & Croft, One Mercantile Center, St. Louis,
16 Missouri, before MARY E. WALKER, a Certified
17 Shorthand Reporter, Registered Professional
18 Reporter, and Notary Public within and for the
19 County of St. Louis, State of Missouri.

20 A P P E A R A N C E S

21 The Plaintiff was represented by Mr.
22 John M. Nolan of the law firm of Lowenstein,
23 Sandler, Kohl, Fischer & Boylan, P.O. Box 1113,
24 Somerville, New Jersey 08876.

25 The Defendants were represented by
Mr. Bruce Ryder of the law firm of Coburn & Croft,
One Mercantile Center, St. Louis, Missouri 63101.

Also present was Bruce Alan Kugler
and James L. Morgan, representing the State of
Illinois, Senior Assistant Attorney General,
Attorney General's Office, 500 South Second Street,
Springfield, Illinois 62706

1 IT IS STIPULATED AND AGREED by and
2 between counsel for Plaintiff and counsel for
3 Defendant that the deposition of PAUL E. TAKACS may
4 be taken pursuant to Rule 26 (a) of the Federal
5 Rules of Civil Procedures on behalf of the
6 Defendant on November 7, 1994, at the offices of
7 Coburn & Croft, One Mercantile Center, St. Louis,
8 Missouri, before Mary E. Walker, CSR, RPR, a Notary
9 Public with and for the County of St. Louis, State
10 of Missouri.

11 o-o-o

12 PAUL TAKACS,
13 of lawful age, being produced, sworn, and examined
14 on the part of the Defendant, after answering, "I
15 do" to the oath administered by the court
16 reporter, deposes and says:

17 EXAMINATION

18 QUESTIONS BY MR. RYDER:

19 Q Paul, let me introduce myself again.
20 My name is Bruce Ryder and I represent Monsanto
21 Company in a lawsuit that has been filed against it
22 by Cerro Copper Products Company in the Federal
23 District Court for the Southern District of
24 Illinois. And that lawsuit involves issues
25 relating to the cleanup that Cerro performed of an

1 area which is referred to as Dead Creek Segment A.
2 Are you generally familiar with that cleanup?

3 A Yes.

4 Q Have you had your deposition taken
5 before?

6 A No.

7 Q Let me go over just some very simple
8 ground rules for you, which I would imagine that
9 Mr. Morgan or Mr. Kugler already reviewed, but I
10 will go over a couple of things again. I'm going
11 to ask you a series of questions. I may show you
12 some of the documents that I have got here under my
13 elbow and ask you questions about those. If at any
14 point I ask you a question and you don't understand
15 what I have said, please let me know. If you
16 answer a question, I will assume you understand
17 what it is that I'm asking you. Try to keep your
18 voice up so that everyone in the room, particularly
19 the court reporter, can hear you and answer audibly
20 rather than with a shake of your head or just an
21 uh-huh or something like that. The court reporter
22 would appreciate it, and it makes for a better
23 transcript when all of this is typed up. After I
24 get done asking you some questions, then I imagine
25 Mr. Nolan, who represents Cerro Copper, will also

1 be asking you some questions. Do you have any
2 questions about the procedure before we get
3 started?

4 A No.

5 Q Okay. For the record, would you
6 state your name?

7 A My name is Paul Takacs, T-a-k-a-c-s.

8 Q And what is your present address?

9 A My work address?

10 Q Work address is fine.

11 A 2200 Churchill Road, Springfield,
12 Illinois.

13 Q And what is your present job title?

14 A Officially I'm an environmental
15 protection engineer 3.

16 Q And by whom are you employed?

17 A By the Illinois Environmental
18 Protection Agency.

19 Q How long have you been employed by
20 the Illinois Environmental Agency or the IEPA?

21 A It's almost been seven years; it
22 will be seven years in January.

23 Q Was that your first employer out of
24 school?

25 A This was my second employer.

1 Q Who was your first employer?

2 A My first employer was a consulting
3 firm called Soil Consultants, and I worked there as
4 a soil technician for about three months before I
5 got my job with Illinois Environmental Protection
6 Agency.

7 Q And where was that company located
8 at?

9 A That was located in St. Charles --
10 actually St. Peters, I'm sorry.

11 Q In Missouri?

12 A In Missouri, yes.

13 Q Where did you go to college?

14 A I went to college at the University
15 of Missouri, Rolla.

16 Q Did you graduate from that
17 university?

18 A Yes.

19 Q What degree did you receive?

20 A Geological engineering.

21 Q And what year did you graduate?

22 A 1968.

23 Q Okay. When you -- and you started
24 with Soil Consultants immediately after graduation?

25 A It was approximately nine months

1 after graduation.

2 Q When you started with the Illinois
3 Environmental Protection Agency, what was your
4 initial position?

5 A My official title was an
6 Environmental Protection Engineer 1. I worked in
7 the -- what is known now as the Bureau of Water as
8 a permit engineer for industrial waste water
9 permits.

10 Q And how long did you have that job
11 responsibility?

12 A That was about one year and two
13 months.

14 Q When did you change
15 responsibilities?

16 A That was in March of 1989. I worked
17 for what now is known as the Bureau of Land. And I
18 have been in the Superfund program since then as a
19 project manager.

20 Q Are you still a Superfund manager?

21 A Yes.

22 Q What are your responsibilities as a
23 Superfund manager?

24 A Currently and when I began working
25 in Superfunds, my job as a project manager related

1 to complete management of various Superfund sites
2 and pre-Superfund sites in the State of Illinois.

3 Q When you say pre-Superfund sites,
4 what does that mean?

5 A Superfund sites or I should say
6 sites which are in the process of becoming a
7 proposed Superfund site, such as the Sauget site.

8 Q Did you receive any training when
9 you changed responsibilities from Bureau of Water
10 to Bureau of Land?

11 A Yes, I did.

12 Q Can you describe that training,
13 please?

14 A The training related mainly to how
15 to be a complete project manager, how to write
16 remedial investigation feasibility study-type
17 records. I was also given a very intensive
18 training program with the United States
19 Environmental Protection Agency. They have various
20 training seminars on what the Superfunds program is
21 all about. How to conduct sampling, how to manage
22 a -- what we call a state led Superfund site, a
23 Federal led Superfund site, and PRP Superfund
24 sites. I had also been given extensive training in
25 risk assessment on Superfund sites.

1 Q When did you receive that training?

2 A That training began almost
3 immediately when I transferred over. I believe it
4 was a couple of weeks before I was signed up and in
5 the training program.

6 Q Okay. How long did that training
7 program last?

8 A The training program is unofficial.
9 It lasted for a couple of months just to get a
10 basic understanding.

11 Q Were you assigned a number of sites
12 for which you were responsible when you became --
13 when you were transferred into the Bureau of Land?

14 A Yes, initially I was.

15 Q Were the Sauget sites which you
16 previously referenced a moment ago, those which you
17 were assigned?

18 A Yes.

19 Q How many other sites were you
20 assigned at the same time?

21 A I can't recall how many offhand --
22 how many other sites that I was assigned. The
23 sites -- the Sauget sites were sites which, at that
24 stage, did not have much involvement, so I was able
25 to spend more time working on Sauget.

1 Q Okay.

2 A Sauget sites.

3 Q Were the -- strike that. Was the
4 cleanup of Dead Creek Segment A among the first
5 actual cleanup that you managed as a project
6 supervisor?

7 A Yes.

8 Q Was it, in fact, the first one?

9 A In terms of actual remediation work,
10 that was my first project.

11 Q Can you describe what it is you are
12 referring to when you talk about the Sauget sites?

13 A The Sauget sites as they come to
14 have been known here, as far as Area 1 is
15 concerned, we have divided Sauget sites into two
16 areas, Area 1 and Area 2. The portion in which
17 Cerro Copper's Creek Segment A is located is within
18 Area 1 and we had defined Area 1 in our initial
19 proposal to have those sites scored onto the MPL.
20 They consisted of the whole of Dead Creek which was
21 Dead Creek Segment A, B, C, D, E, and F. It also
22 consisted of various abandoned landfills which
23 allegedly had accepted hazardous waste. Those are
24 Site G, Site H, and Site I. In addition to that,
25 we had proposed Site L also be added and that was

1 an old lagoon which was used by a truck washing
2 operation or a hazardous waste hauler.

3 Q Was that, in fact, included in Area
4 1?

5 A Which?

6 Q The Site L?

7 A Yes, it was.

8 Q And what did Area 2 consist of or
9 what does Area 2 consist of?

10 A Area 2 consisted of three
11 landfills -- I'm sorry, two landfills and one
12 sludge drying bed that the Village of Sauget used.
13 The Village of Sauget site we had designated as
14 Site O. The other two were landfills. Site Q,
15 which was a landfill that was operated by Paul
16 Sauget, and then Site R, also known as the River's
17 Edge Landfill.

18 Q Okay. Why did -- do you know why
19 IEPA decided to group these sites into these two
20 areas?

21 A Mainly we were dealing with two
22 types of risks here. In Area 1, much of the risks
23 were associated with a group of landfills and
24 portions of Dead Creek which had similar
25 contaminants. They also allegedly had similar

1 generators, and the main exposures were to the
2 residents of Cahokia. And Area 2, the concerns
3 were more environmental since there were not
4 residents living close to Area 2, much of the
5 impacts from those sites were to be found in the
6 Mississippi River.

7 In addition, the contaminants found
8 in all the sites were similar as far as both of
9 them are concerned. All of them formed somewhat
10 separate groundwater contamination plumes because
11 they were in the similar groundwater flow regime,
12 if you will.

13 Q When you say all of them, what are
14 you referring to?

15 A Area 1 as a group contributed a
16 certain loading to -- a certain contaminant loading
17 to the groundwater. And because all the sites were
18 located very closely together, the affects from
19 each of these sites were pretty much found in one
20 area. It's difficult to explain without drawing
21 maps and everything.

22 Q Okay. What was the basis for the
23 grouping of these sites -- let me ask it a
24 different way. What was -- based on what
25 information, were you able or was IEPA able to make

1 the assessments concerning these sites that had
2 been made at the time that you first got involved
3 with?

4 A The basis of both Area 1 and Area 2
5 was from a report entitled, "Expanded Site
6 Investigation at the Dead Creek Project Sites." It
7 was an area-wide study that was performed by our
8 consultant in ecology and environment. And that
9 report came out in May of 1988. As seen in that
10 report, the objective of that work was to gather
11 data to put into a scoring package which would be
12 sent to U.S. EPA for a consideration to later
13 become Superfund sites.

14 Q Okay. Was that scoring package put
15 together?

16 A Yes.

17 Q Has it been submitted to the U.S.
18 EPA?

19 A That particular scoring package was
20 not submitted to U.S. EPA because of changes in the
21 scoring criteria. A new package, which takes into
22 consideration the new scoring criteria, has been
23 prepared and has been sent to U.S. EPA.

24 Q When was that -- when did that
25 occur?

1 A The latest submittal?

2 Q Yes.

3 A It's been recent.

4 Q In the last year?

5 A Yes, within the last year.

6 Q And was the scoring done based on
7 the Area 1 and Area 2 contributors or based on the
8 individual sites?

9 A These were based on Area 1 and Area
10 2.

11 Q And why were they -- why was the
12 scoring done for the entire area rather than for
13 individual sites?

14 A Because they fit the aggregation
15 criteria for scoring sites together. The basis,
16 again, being similar periods of operation, similar
17 contaminants, similar generators.

18 Q Was any scoring ever done for Dead
19 Creek Segment A standing alone?

20 A No.

21 Q What was the status of IEPA's
22 investigation or supervision of the sites at the
23 time you first became involved with them?

24 A The status back then was to offer to
25 a group of potentially responsible parties who the

1 State of Illinois considered to be liable at these
2 Area 1 sites to perhaps solicit some type of
3 agreement whereby they could do remedial
4 investigation, feasibility study.

5 Q Had that offer already been made at
6 the time before you got involved?

7 A No, the offer was made -- the offer
8 was officially made in August of '89 when we sent
9 out information request letters. At least the
10 information gathering stage began in August. There
11 were meetings which we had undertaken on Area 1
12 which came later the next year.

13 Q When you say meeting, you mean
14 meetings with the potentially responsible parties?

15 A Yes, to somehow gather, if this
16 group of potentially responsible parties were
17 willing to perform this RI/FS.

18 Q Was one of those potentially
19 responsible parties or PRPs Cerro Copper?

20 A Yes.

21 Q Do you know whether Cerro Copper had
22 previously met with representatives of IEPA
23 concerning the Area 1 sites?

24 A I am unaware of meetings between
25 Cerro and the IEPA prior to myself coming onto the

1 Sauget sites. There might have been some
2 conversations, but I am not privy to that.

3 Q At the time that you became
4 involved, based on the information that was
5 available to you, did you take the position that
6 the Area 1 sites needed to be cleaned up pursuant
7 to the Superfund law?

8 A Yes.

9 Q And the purpose of your negotiations
10 was to attempt to encourage the PRPs to perform
11 that cleanup?

12 A Yes.

13 Q Okay.

14 A We, however, were mainly looking for
15 a remedial investigation feasibility study.

16 Q At that point?

17 A At that point.

18 Q Okay. How long did you anticipate,
19 when you first became involved with the
20 negotiations with the PRPs leading to performance
21 of the IRFS, would take?

22 A I'm not sure I understand that.

23 Q Had you worked out a timetable for
24 when you thought the performance of the IRFS would
25 begin, when you first became involved with the

1 Sauget site?

2 A I did not generate a timetable. As
3 far as these remedial investigation feasibility
4 studies were concerned, they never happened. So we
5 didn't really get to the stage that we should, you
6 know, be setting up schedules, you know, when work
7 could begin.

8 Q Okay. Did you have any feeling for
9 how long it would take before actual on-site
10 remediation would begin at the sites if the process
11 were to go forward?

12 A Not initially. That was pretty much
13 when Cerro Copper met with myself; Jeff Lawson, who
14 was my predecessor; and I believe it was Bruce
15 Carlson; and Joe Madonia, I believe. And at that
16 meeting, that is when it became known to us that
17 Cerro was willing to perform some type of remedial
18 action in Area 1.

19 Q Who was involved from Cerro at that
20 meeting?

21 A That meeting -- and I recall Sandy
22 Silverstein was there, I believe Michael Rodburg
23 was there also, and I can't recall offhand if there
24 had been anyone else.

25 Q Okay. Do you remember approximately

1 when that meeting took place?

2 A That meeting -- that initial meeting
3 actually took place prior to the information
4 request letters being sent out. I believe that
5 meeting happened in May of '89. I would have to
6 check my records to get you a specific date.

7 Q Okay.

8 MR. NOLAN: Did you say '89 or '88?

9 THE WITNESS: '89.

10 MR. NOLAN: Thank you.

11 Q (By Mr. Ryder) Was this a meeting
12 that was initiated by Cerro?

13 A I don't recall who initiated it.

14 Q Did Cerro make presentations about
15 what it was willing to do at this meeting?

16 A I think that particular meeting they
17 mostly spoke about just conceptual ideas. Nothing
18 really concrete was proposed at the meeting. It
19 was just a group of ideas that I believe they had,
20 you know, wanted to present at least at the
21 meeting.

22 Q What were those ideas?

23 A Those ideas were to perform some
24 type of study in Creek Segment A and perhaps
25 consider some options to address the contamination.

1 Q Did they state why they were
2 focusing only on Creek Segment A as opposed to the
3 rest of the Creek sites?

4 A I don't believe so. Cerro was
5 mainly concerned with these -- the various sites in
6 Area 1 that were on their property; that was their
7 primary concern.

8 Q And what were those sites?

9 A Those would be Site I, Creek Segment
10 A and a portion of Creek Segment B, and Site G.

11 Q What was the reaction of yourself
12 and the other people from the State of Illinois to
13 these conceptual ideas?

14 A I think we were -- we were acceptive
15 (sic.) of these because our intent back then was to
16 at least initiate some kind of cleanup program. If
17 any PRP was willing to address some of the more
18 severely contaminated portions of Area 1, we
19 were -- we were very much interested in
20 accommodating that.

21 Q Was the proposal by Cerro contingent
22 upon being given some sort of a break with respect
23 to the other sites that were in Area 1 or in Area
24 2?

25 A No.

1 Q As far as you and IEPA are
2 concerned, Cerro was still considered a potentially
3 liable party with respect to those other sites?

4 A Both Cerro Copper does have
5 liability in got Area 1 and Area 2. That was our
6 position when we were identifying potential
7 responsible parties and this hasn't changed.

8 Q Now, has -- well, strike that. Did
9 you tell -- I say you, I mean the State of Illinois
10 representatives as a group, did you encourage Cerro
11 to go ahead with the study that it proposed
12 performing at this meeting?

13 A At that meeting, we were favorable
14 to the request. We felt that if this was something
15 that Cerro was willing to do, that as a part of our
16 long-term clean up program in Area 1, again, we
17 would be willing to accommodate.

18 Q When you say willing to accommodate,
19 what would you have to do in order to accommodate
20 them as opposed to letting them just do what they
21 wanted to do?

22 A Accommodate, when I refer to
23 accommodate, I probably more refer to it as
24 encouraging. Accommodation I think would in that
25 respect, we were willing to consider certain

1 proposals for clean ups.

2 Q Okay. Did Cerro give you, at that
3 point, any sort of timeframe for how long they
4 thought the study would take to perform?

5 A At that initial meeting, no.

6 Q Did you anticipate that it would
7 take a year or six months to perform?

8 A Again, at that meeting we had no
9 idea how long it would take to perform.

10 Q Do you know whether Cerro went ahead
11 with the study that you referred to that they
12 proposed?

13 A Yes, Cerro went ahead with a study
14 in Creek Segment A. They performed several soil
15 borings within the creek segment. And that was
16 later summarized in a report which was sent to us.

17 Q Did IEPA supervise or monitor the
18 performance of those soil borings of the study?

19 A No, we were not involved.

20 (Whereupon the Reporter marked
21 Deposition Exhibit Number 1 for identification as
22 requested.)

23 Q (By Mr. Ryder) Let me show you
24 what's been marked as Takacs Exhibit 1, which is a
25 document which bearing number C00035 and another

1 number 004054 and ask if you could identify that
2 for the record?

3 A Yes, I'm aware of this.

4 Q Could you describe what it is?

5 A This was a response to Cerro
6 Copper's request for applicable or relevant and
7 appropriate requirements -- specifically, for Creek
8 Segment A and Site I.

9 Q Okay. And this is a letter that you
10 wrote dated August 24th, 1989, to Mr. James
11 Stewart?

12 A Yes.

13 Q Was Mr. Stewart representing Cerro
14 Copper?

15 A Yes.

16 Q Do you know why Mr. Stewart was
17 asking for these applicable or relevant and
18 appropriate requirements?

19 A As I recall, Cerro, after our
20 initial meeting, I believe we might have had some
21 more meetings. Again, I would have to check my
22 records as to how many we had. But sometime
23 between that initial meeting and August 24th, they
24 made a request to us to at least analyze what types
25 of laws they were going to have to deal with as far

1 as potential remediation at both Creek Segment A
2 and Site I were concerned.

3 Q Was there an indication that Cerro
4 was, in fact, contemplating cleaning up Site I at
5 this point?

6 A At this time, yes.

7 Q Do you know why Cerro subsequently
8 decided not to clean up Site I?

9 A No, I never knew why they decided
10 not to work on that.

11 Q Was any attempt made by you or by
12 the Agency to encourage Cerro to clean up more than
13 Creek Sector A?

14 A I recall there was encouragement.
15 Specifically, again I believe and follow-up
16 meetings after this May meeting we reiterated that
17 our interest was within the whole area, which is,
18 you know, all of the sites that I had mentioned
19 earlier.

20 Q What was Cerro's reaction to that
21 encouragement?

22 A Cerro's reaction was that they could
23 proceed with remedial action or at least a study --
24 strike that. I can't really remember when the
25 actual study was performed, but I do recall

1 timeframes in which I was receiving documents. But
2 what Cerro had told us was that they were going to
3 address the problems at Creek Segment A first and
4 then after that, they were going to begin studies
5 on Site I.

6 Q Do you know whether Cerro has ever
7 performed any studies on Site I?

8 A I'm unaware if they have.

9 Q Did anyone from Cerro state why they
10 wanted to proceed with Creek Sector A first?

11 A No.

12 Q With respect to -- strike that. Are
13 you aware of instances where IEPA has required a
14 party whom it considers to be liable for a site to
15 perform an immediate clean up of that site?

16 A Could you rephrase that?

17 MR. RYDER: Can you read it back?

18 (Whereupon, the Reporter read back the
19 last question as requested.)

20 A I am aware of immediate clean ups.

21 Q (By Mr. Ryder) Under what kind of
22 circumstances are immediate clean ups required?

23 A Circumstances include mainly
24 potential exposures to human populations, to
25 environment in general, be it, you know, fish,

1 wildlife plants. Any risk that is associated with
2 persons coming into contact with various waste
3 materials, either directly or indirectly.

4 Q Did the Agency consider that those
5 circumstances are not present at the Sauget site or
6 sites?

7 A We felt that the circumstances for
8 some type of immediate action were mainly at Site G
9 and Creek Segment A by the simple fact that there
10 were waste materials that were present on the
11 surface. In situations with other sites of Area 1,
12 most of the waste has been at least partially
13 buried. We also felt that a potential exposure to
14 residential populations in Cahokia were significant
15 as far as all of Dead Creek was concerned. We
16 didn't have much data on the portion of Dead Creek
17 which were next to residential areas. Our data
18 indicated that the major problems were in Creek
19 Segment A, Site G. I could probably also say that
20 Creek Segment B was another area in which we were
21 trying to get some activities going.

22 Q Did you, in fact, require any
23 remediation with respect to Site G or Creek Sectors
24 A or B?

25 A In terms of official notices, no.

1 Our intentions of remediation at these three sites
2 of Area 1 were strictly internal.

3 Q Could you explain that? I don't
4 think I follow what you are saying.

5 A Basically it was not made known to
6 PRP groups or any PRPs in particular that we were
7 especially interested in further studies and
8 remediation at Creek Segment A, Site G and Creek
9 Segment B.

10 Q Okay. And, in fact, no -- or strike
11 that. Has any clean up or remedial activity taken
12 place at Site G or Creek Sector B?

13 A No, there have not. There have been
14 follow-up studies performed by Monsanto at Creek
15 Segment B, but they are just studies.

16 Q And more than -- is it true that
17 more than a year elapsed between the time that you
18 first met with Cerro and the time that the
19 remediation of Creek Sector A began?

20 A Yes.

21 Q Okay.

22 (Whereupon the Reporter marked Deposition
23 Exhibit Number 2 for identification as requested.)

24 Q (By Mr. Ryder) Let me show you
25 what has been marked as Takacs Exhibit 2 and ask if

1 you can identify that for the record?

2 A I'm going to read this here first.

3 Q That's fine.

4 A This letter was prepared by Cerro
5 attorneys as an answer to our requests for
6 investigations of both Area 1 and Area 2. And this
7 letter says that Cerro is willing to cooperate with
8 IEPA to at least negotiate issues concerning
9 investigation of conditions at the Sauget Sites
10 Area 1. They felt that their contributions to Area
11 2 was at least de minimis and that Cerro was not
12 willing to commit to playing a major role in Area
13 2, but that they were willing to at least pursue
14 studies in Area 1.

15 Q Okay. And for the record, again,
16 this is a letter which is dated September 11th of
17 1989 addressed to William Child from James Stewart.
18 It bears a document identification number of
19 J013079. And it indicates, does it not, that you
20 received a copy of this letter?

21 A Yes, it does.

22 Q Did you feel that Cerro was
23 cooperating meaningfully with IEPA at this point?

24 A As far as Area 1 was concerned, yes;
25 as far as Area 2 was concerned, no, because

1 obviously they said they were not willing to commit
2 to playing a major role in Area 2.

3 Q And what was the basis for you
4 feeling they were willing to cooperate with respect
5 to Area 1?

6 A That, I believe, is based mainly on
7 the fact that they own large portions of property
8 which consist of the various Area 1 sites.

9 Q Did Cerro, in fact, cooperate with
10 IEPA in negotiating concerning investigations
11 outside of Creek Sector A?

12 A Again, on that the emphasis was on
13 Creek Segment A. Cerro, I believe, was willing to
14 perform additional work after their work was
15 complete at Creek Segment A.

16 Q Okay.

17 A At least the studies, I should say.

18 (Whereupon the Reporter marked Deposition
19 Exhibit Number 3 for identification as requested.)

20 Q (By Mr. Ryder) Let me show you
21 what's been marked as Takacs Exhibit 3 which
22 appears to be a letter addressed to you dated
23 November 10th, 1989, bearing a document
24 identification number of J016608 through 12. Do
25 you recognize this document?

1 A Yes, I do.

2 Q Do you want to take a moment to
3 refresh your recollection before I ask you some
4 questions about it?

5 A I am familiar with it enough.

6 Q Okay. In the first line of the
7 document, the letter refers to a meeting of
8 November 2nd, 1989?

9 A Yes.

10 Q Do you recall that meeting?

11 A I do vaguely recall the meeting,
12 yes.

13 Q Do you recall what was discussed at
14 that meeting?

15 A What was discussed at that meeting
16 was the construction of a storm water retention
17 area which needed to be constructed before Cerro
18 Copper could begin work at remediation Dead Creek
19 Segment A.

20 Q Is that what you were told by Cerro
21 that construction was necessary before the
22 remediation could begin?

23 A Yes.

24 Q What was the purpose for Cerro's
25 bringing that fact to your attention, if you know?

1 A What I had been told by Cerro was
2 that in the past, a large portion of the
3 precipitation which fell on the Cerro Copper plant
4 drained into Dead Creek. And that in order to
5 perform a removal in Dead Creek Segment A, the
6 situation with storm water running into Creek
7 Segment A every time it rained had to be addressed
8 first; otherwise, the sediment would never dry.

9 Q Did you perform any investigation of
10 your own to determine whether or not Cerro's
11 representations were accurate?

12 A No.

13 Q Was Cerro asking your permission to
14 proceed with this or what was their purpose in
15 bringing this to your attention?

16 A The purpose of that was to get our
17 water permits section involved. At the meeting, I
18 recall there was someone there at -- present with
19 me who listened to what Cerro was proposing. The
20 storm water management project is something of a
21 water pollution issue. I'm somewhat familiar with
22 that because that is where I worked with the Agency
23 prior to coming to Superfund, so I was somewhat
24 familiar with storm water management permits.

25 Q Why is that a water pollution issue?

1 A I'm not aware. It's surface water
2 that we are talking about that could be potentially
3 contaminated.

4 Q Okay.

5 A And that they needed some type of
6 permit to govern the construction and operation of
7 the storm water management project.

8 Q Was such a permit issued
9 subsequently?

10 A I believe it was.

11 Q Were you involved in that process in
12 any way?

13 A I believe that I received a copy of
14 the final permit. I do recall giving a general
15 background of what Cerro's intentions were in this
16 area to that particular permit reviewer that wrote
17 up the construction and operation permit for this
18 storm water management project.

19 Q What did you tell that person?

20 A I basically told them that Cerro was
21 planning on doing a removal, and as Cerro had told
22 me earlier that this project, this storm water
23 project, had to be completed before we got into
24 discussing specifics of the removal. It was just
25 general information.

1 Q At this point, did you know already
2 that Cerro intended to remove the sediment from
3 Creek Sector A and remove it off site?

4 A I believe at that stage, I would
5 have to check my records to make sure, but I
6 believe that they were planning on removing the
7 sediment. I don't recall knowing at that stage as
8 to what was going to become of the sediment,
9 whether it was going to a landfill, whether it was
10 being incinerated, or treated, or whatever.

11 Q In order to obtain this permit, did
12 Cerro have to submit the construction plans for the
13 storm water retention facility to the Bureau of
14 Water?

15 A Yes, that would have been necessary
16 as a condition in the permit application.

17 Q Do you know what criteria the Bureau
18 of Water would have used in reviewing those plans?

19 A Only in a very general sense. My
20 understanding of what was to be accomplished with
21 this project was that this basin would have been
22 constructed, it would have retained the storm
23 water, and it would have eventually been discharged
24 to the sewer system.

25 Q Do you know whether Cerro or the

1 IEPA solicited any public comment concerning the
2 plans to build the storm water facility?

3 A No, none are required. Well, I'm
4 trying to recall what the -- I know that if there
5 would have been some type of discharge to the
6 waters of the state, there is a public comments
7 period, but as far as an -- as construction of a
8 retention basin, you know, with a discharge to a
9 publicly owned treatment works, no, I don't believe
10 that no public hearing or public comment period are
11 associated with that.

12 Q At the November 2nd meeting, who was
13 present on behalf of Cerro?

14 A I recall Carl Schafer and Walt
15 Shifrin might have been there. As far as the IEPA
16 was concerned, I was there and one of our permit
17 writers. I can't recall his name offhand.

18 Q Was it the person who actually ended
19 up writing the permit for this particular site?

20 A Yes, if you have a copy of that, I
21 could tell you who it was.

22 (Whereupon the Reporter marked Deposition
23 Exhibit Number 4 for identification as requested.)

24 Q (By Mr. Ryder) Let me show you
25 what's been marked as Takacs Deposition Exhibit 4

1 which appears to be a letter from Carl Schafer to
2 yourself dated November 21, 1989, and bearing a
3 document identification number of J016619 and ask
4 if you can recognize that document?

5 A Yes, I am with this.

6 Q Okay. Was this letter sent in
7 response to a request that you had given to
8 Mr. Schafer?

9 A This letter was written to me
10 concerning the excavated material from the
11 construction of this storm water collection basin.
12 When the basin was constructed, some digging had to
13 be done and this material was hauled to another
14 portion of Site I and that would be marked on the
15 map. I had -- in our November 2 meeting, I had
16 raised the concern about what they were going to be
17 doing with that material. And this November 21,
18 1989, letter is an answer to my initial question.

19 Q Do you know if this material was
20 subsequently taken to the location indicated on the
21 map?

22 A That was not verified by me. We did
23 not have people to go down to Cerro's property to
24 verify that the material actually had been disposed
25 of there.

1 (Whereupon the Reporter marked Deposition
2 Exhibit Number 5 for identification as requested.)

3 Q (By Mr. Ryder) Let me show you
4 what has been marked as Takacs Deposition Exhibit 5
5 which appears to be a letter from you to Carl
6 Schafer dated November 30th, 1989, bearing document
7 identification No. C74-7 and renumbered 004623
8 through 4631. Do you recognize this document?

9 A I recall having written it.

10 Q The last sentence of the -- or if
11 you are taking a look at it, let me know when you
12 are finished so I won't interrupt you.

13 A Okay. Okay.

14 Q In the last sentence of the first
15 paragraph you reference a gentleman by the name of
16 Gary C-i-m-a?

17 A Yes.

18 Q Was that the Division of Water
19 Pollution Control employee who was present at the
20 meeting with you?

21 A Yes, it was. And he is also the
22 author of the permit.

23 Q In the last sentence of the second
24 paragraph, or the last two sentences, you request
25 that an analysis be performed on representative

1 soil samples from the excavated material to verify
2 that it's clean; is that correct?

3 A Yes.

4 Q Do you know whether those analyses
5 were, in fact, performed?

6 A I can't recall having seen the data.
7 I do recall the actual data -- I do recall Cerro
8 telling me that the material that was to be moved
9 was clean. It doesn't mean that they -- that the
10 data was never sent; I just can't recall having
11 looked at it.

12 Q Okay.

13 (Whereupon the Reporter marked Deposition
14 Exhibit Number 6 for identification as requested.)

15 Q (By Mr. Ryder) Let me show you
16 what's been marked as Takacs Deposition Exhibit No.
17 6 which appears to be a letter from Christopher
18 Bade or Bade to you dated February 13th, 1990, and
19 bearing document identification number of J005814.
20 Do you recognize this document?

21 A Yes, I recognize it.

22 Q What is it?

23 A This would be a chemical analysis of
24 a portion of the borings that were conducted during
25 their site investigation field work. I don't

1 recall if this was a complete set, but I know it's
2 at least a portion of the data.

3 Q Was this the data that you -- Cerro
4 transmitted to you in connection with the
5 construction of the waste treatment facility?

6 A I don't believe so. This would have
7 been, as the text says, samples collected during
8 site characterization activities.

9 Q The reason I asked that is that this
10 does say it is just the portion of the samples
11 which would have been or taken along the western
12 side of the Creek which is the part of the Creek or
13 the area, whereas I understand it, the wastewater
14 collection facility was constructed?

15 A Yes, there may be some of that data
16 in here.

17 Q The area in this document that might
18 correlate with the type of material that would have
19 been removed could be what is noted in here as
20 A16A?

21 A Yes, I believe this would roughly
22 correlate with the waste material that was removed
23 and approximate locations of where it was disposed
24 at. However, this map here that noted in the
25 February 13th, 1990, a submittal doesn't appear to

1 correlate with the fill storage area that was
2 designated in the November 21, 1989, map. The
3 locations are approximately the same, but they are
4 not quite.

5 Q Okay. Do you recall reviewing this
6 data in connection with the storm water retention
7 facility construction?

8 A I don't believe so. I think I might
9 have been notified verbally that the material that
10 was being offered was cleaned and that the area in
11 which the material was to be disposed of at is also
12 cleaned, but I did not see the actual data. I saw
13 the data, you know, February 13th.

14 Q Do you remember who would have given
15 you that verbal notification?

16 A I couldn't recall.

17 (Whereupon, at this point in the
18 proceedings an off the record discussion was held,
19 which by direction was not stenographically
20 reported, after which the following proceedings
21 were conducted:)

22 (Whereupon the Reporter marked Deposition
23 Exhibit Number 7 for identification as requested.)

24 Q (By Mr. Ryder) Let me show you
25 what has been marked as Takacs Exhibit 7, and for

1 the record, it appears to be a memorandum which you
2 prepared dated November 18th, 1989, bearing a
3 document identification number of J011881. Do you
4 recognize this document?

5 A Yes, I recognize it. Could I check
6 it out real quick?

7 Q Sure.

8 A Okay, yes.

9 Q Okay. Could you describe the
10 subject of this memorandum?

11 A The subject of this was really just
12 to inform those who had been working with me on
13 this case to get a PRP funded RI/FS. This was just
14 basically a summary of what went on at the meeting.

15 Q Okay. Was this the first PRP
16 meeting on the Sauget sites that had been held
17 since you became responsible or was there an
18 earlier one?

19 A As far as all PRPs together are
20 concerned?

21 Q Yes.

22 A This might have been the first
23 official meeting.

24 Q By this point, had Cerro already
25 proposed going forward with its study of Creek

1 Segment A?

2 A Cerro, in fact, already completed
3 the study. Based on what I have seen here and on
4 dates of these documents.

5 Q Okay.

6 A I'm looking at Exhibit 6 and Exhibit
7 7.

8 Q They performed the work underlying
9 the study. But they hadn't prepared the document
10 itself yet; is that correct?

11 A Yes, that's correct.

12 Q Was -- do you recall whether the
13 fact that Cerro was going forward with this study
14 was discussed at the November 15th, 1989, meeting?

15 A I can't recall that we discussed
16 that at that stage. The state was mainly
17 interested in gaining agreements for all of the
18 Area 1 sites and Area 2 sites.

19 Q Was -- and what the state was
20 looking for was the performance of a PRP funded
21 RI/FS?

22 A Yes.

23 Q Does that mean that you were
24 contemplating proceeding with these sites as
25 remedial action?

1 A At that stage, I can't recall if
2 that was determined yet.

3 Q Okay. Do you recall what the
4 deadlines were that were given at this meeting?

5 A I can't recall offhand.

6 Q Okay.

7 (Whereupon the Reporter marked Deposition
8 Exhibit Number 8 for identification as requested.)

9 Q (By Mr. Ryder) Let me show you
10 what's been marked as Takacs Deposition Exhibit 8
11 and state for the record that it appears to be a
12 letter from James Morgan to persons listed on an
13 attached mailing list dated November 20th, 1989.
14 And it indicates that you received a copy; is that
15 correct?

16 A Yes, I did.

17 Q Do you recall receiving this letter?

18 A I do recall receiving it.

19 Q Are these the deadlines that were
20 set in the -- or that are referenced in Exhibit 7
21 for the proceeding with the consent decree
22 negotiations?

23 A They appear to be, yes.

24 Q Okay. Do you know whether you were
25 contemplating at this point that the RI/FS not be

1 performed until after negotiations for the consent
2 orders were completed?

3 A Could you say that again, please?

4 Q Yeah, let me see if I can say it a
5 little bit more clearly. Were you contemplating
6 that the consent order negotiating the RI/FS would
7 be negotiated and entered before the RI/FS was
8 actually performed?

9 A I couldn't remember. I know that at
10 this stage in the game, the -- we were talking with
11 Cerro about doing, you know, some type of, you
12 know, action in Creek Segment A. I think a lot of
13 it might have been informal at that stage.

14 Q But with respect to the PRPs a
15 group?

16 A Yes.

17 Q Would the RI/FS be performed while
18 the negotiations for the consent order were in
19 progress?

20 A The field work for Cerro's RI/FS, I
21 believe, was performed before this.

22 Q Right, but I'm not asking you about
23 Cerro's work, I'm asking about the PRP RI/FS that
24 you were discussing or that is being discussed in
25 this letter and was discussed at the November 15th

1 meeting?

2 As a matter of fact, that RI/FS was
3 never performed; is that correct?

4 A The area wide -- Area 1 RI/FS was
5 never performed, yes.

6 Q But this proposal was designed to
7 govern negotiations towards that area wide RI/FS?

8 A Yes.

9 Q And were you contemplating that you
10 were negotiating the consent order with respect to
11 that RI/FS before it would have been performed?

12 A I would probably have to check my
13 files to get the specific dates.

14 Q You don't recall at this point?

15 A At this point, I don't recall. I
16 could perhaps tell you later after I have looked at
17 my files.

18 Q Was -- were any of the deadlines on
19 this schedule met by the PRP group?

20 A I don't believe so.

21 Q Do you know why not?

22 A My understanding was in the
23 situation with Cerro Copper I think at that early
24 November meeting, Cerro -- I don't know if they had
25 told us individually or told the entire Area 1

1 group -- they said that they were willing to lead
2 an Area 1 investigation governing an Area 1 RI/FS.
3 My understanding of what happened afterwards was
4 that no one was interested in assisting Cerro in
5 performing this Area 1 RI/FS that the state was
6 asking for.

7 (Whereupon the Reporter marked Deposition
8 Exhibit Number 9 for identification as requested.)

9 Q (By Mr. Ryder) Let me show you
10 what's been marked as Takacs Deposition Exhibit 9
11 which appears to be a letter from Mike Rodburg to
12 James Morgan dated December 15th, 1989, and showing
13 a copy directed to you.

14 A Yes.

15 Q Do you recognize this document?

16 A I recall this document.

17 Q Okay. Did you, in fact, receive a
18 copy of the letter?

19 A Yes, I did.

20 Q You did. In the second paragraph,
21 it states that there was a consensus that Area 2 at
22 the recent PRP meeting, that Area 2 negotiation
23 should proceed ahead of Area 1 negotiations?

24 A Yes.

25 Q Was this the first notice that you

1 had received of that kind of consensus?

2 A I believe it was.

3 Q Okay. The letter also states
4 that -- the last full sentence on the first page --
5 that the PRPs at this time, referring to the PRPs
6 with respect to Area 1, are insufficiently
7 identified. Was that an opinion or an -- or a
8 position that IEPA shared with Mr. Rodburg?

9 A Well, this information here I assume
10 is just Cerro's observation about what is going on
11 internally with the Area 1 PRPs. It would have
12 been impossible for us to verify that.

13 Q Turning over to the first full
14 paragraph on the second page, the first sentence
15 states, "Cerro does not believe that it would be
16 appropriate to delay negotiations with the IEPA
17 with respect to a consent decree for a planned
18 removal of contaminated sediment from Dead Creek
19 Segment A." Do you see that?

20 A Yes.

21 Q Had negotiations for such a consent
22 decree been delayed pending the area-wide
23 negotiations up to this point?

24 A As far as I can tell, I don't
25 believe they were. I believe that negotiations on

1 the -- for the planned removal of sediments were
2 ongoing at that time.

3 Q Okay.

4 A But, again, in Area 1 there was
5 nobody else talking to us, so there really wasn't
6 any negotiations going on anywhere else but Creek
7 Segment A.

8 Q At what point was it determined that
9 the clean up of Dead Creek Segment A should be
10 handled as a removal action instead of a remedial
11 action?

12 A I couldn't recall that. What I
13 could tell you is that I believe Cerro had most of
14 the data that they felt was necessary, you know,
15 perhaps in late '89 or early '90 that, you know,
16 they could go ahead and draw up a report to at
17 least, you know, report the findings and perhaps
18 make some kind of recommendations for what needed
19 to be done. I recall some time after Cerro had
20 completed all of their work, that they were
21 planning to put this report together. Cerro asked
22 me what kind of format I would want this report in.
23 And the format which I had sent to them was based
24 on an EECA model which -- Engineering Evaluation
25 Cost Analysis -- guidance. And those types of

1 guidances are applicable to removal actions. As
2 you know, the EECA in the removal program is the
3 same as what the RI/FS is in the remedial program.
4 That is when I understood that as far as how this
5 project was to proceed; that is when I understood
6 that it was going to be proceeding as a removal
7 action.

8 Q Did you -- you provided that model
9 to Cerro at Cerro's request for -- was that when --
10 I don't -- I didn't quite understand your answer.
11 Was your providing that type of an outline to Cerro
12 the point when you made that determination, or was
13 that pursuant to Cerro's determination, or how did
14 that -- how did that work?

15 A I don't recall.

16 Q Okay.

17 A In other words, in terms of who made
18 the determination as to if the project was going to
19 proceed as a removal or remedial action, I really
20 don't know. But I felt at the point in time in
21 which I began providing outlines based on these
22 EECA models, it was at that stage when I considered
23 this to be a removal project. And that was
24 followed through to the end.

25 Q Okay. Was a removal site evaluation

1 performed for Creek Segment A?

2 A Yes, it was.

3 Q What did that consist of?

4 A That consisted of a presentation of
5 the data that Cerro had generated. And Cerro had
6 stated some of their conclusions as to the nature
7 and extent of the contamination. Items of that
8 sort which are consistent with EECAs.

9 Q Was that a first draft of what
10 became the SI/FS or was that something that
11 predated the drafting process?

12 A That actually was the SI/FS. And
13 normally we would be calling this an RI/FS, but I
14 wanted them to call it something else other than a
15 remedial investigation because a remedial
16 investigation obviously implies that you are
17 performing work on the remedial program. So that
18 is why that was changed, I guess, to an SI/FS in --
19 really, in retrospect, should have been called the
20 EECA, the Engineering Evaluation Cost Analysis,
21 that was the intent of that document.

22 Q Is a removal site evaluation
23 supposed to be performed before the EECA is
24 performed on the removal site?

25 A They are essentially the same thing.

1 The removal site investigation is equivalent to the
2 engineering evaluation.

3 Q Did the site investigation -- strike
4 that. Did the site investigation evaluate all the
5 factors that are necessary to determine whether or
6 not a removal was necessary?

7 A We believe they did.

8 Q Did you review the site evaluation
9 with those factors in mind?

10 A Yes.

11 (Whereupon the Reporter marked Deposition
12 Exhibit Number 10 for identification as requested.)

13 Q (By Mr. Ryder) Let me show you
14 what's been marked as Takacs Deposition Exhibit No.
15 10 which appears to be a letter by you to Raymond
16 J. Avendt, A-v-e-n-d-t, dated January 30th, 1990,
17 and bearing a document identification number
18 C00048. Do you recognize that document?

19 A Yes, I do.

20 Q In the third paragraph you
21 referenced a meeting of January 16th, 1990.

22 A Yes.

23 Q Do you recall that meeting?

24 A I don't recall that one.

25 Q Okay. Do you -- in the first

1 sentence in you reference a, "Status Report - Dead
2 Creek Sector A Site Investigation"?

3 A Yes.

4 Q What was that document?

5 A That was, again, this EECA that I
6 was talking about.

7 Q This wasn't the same thing as the
8 site investigation, the feasibility study, though,
9 was it?

10 A The remedial alternatives
11 evaluation, I guess, is similar to a FS, it's just
12 a -- just a basic FS.

13 MR. MORGAN: Excuse me, were you asking
14 what the status report of Dead Creek sector A was?

15 MR. RYDER: Yes.

16 MR. MORGAN: As opposed to the site
17 investigation remedial alternatives evaluation for
18 Creek Segment A?

19 MR. RYDER: That's correct.

20 THE WITNESS: Okay. Status report would
21 just be a data package. That site investigation
22 remedial alternatives evaluation, is the report
23 that is basically the narrative to this status
24 report.

25 Q (By Mr. Ryder) Okay. Is the

1 outline that is attached to this letter the outline
2 that you were referring to earlier as the EECA
3 model format?

4 A Yes, it is.

5 Q So is it fair to say that it's at
6 approximately this point, going back to your
7 previous testimony, that you began to view the
8 cleanup of Dead Creek Sector A as a removal action
9 as opposed to a remedial action?

10 A Yes. That is stated in the first
11 sentence of the second paragraph of this January
12 30th, 1990, letter. I'm referring to it as an
13 immediate removal.

14 Q Okay. Now, you referred to it as
15 immediate removal. The removal did not actually
16 begin for -- or the cleanup didn't actually begin
17 for another five or six months?

18 A Yes, that is correct.

19 Q Is it customary to use the term
20 "immediate" in circumstances with those kinds of
21 time delays?

22 A If I had capitalized immediate
23 removal, it would have been an official immediate
24 removal. That would have been on an accelerated
25 timeframe. I was only referring to this removal

1 action as something that needed to be done sooner
2 than later.

3 Q Sooner it would be necessary to
4 perform a remedial action?

5 A I don't understand.

6 Q Strike it. Never mind.

7 MR. RYDER: Off the record.

8 (Whereupon, at this point in the
9 proceedings an off the record discussion was held,
10 which by direction was not stenographically
11 reported, after which the following proceedings
12 were conducted:)

13 Q (By Mr. Ryder) Based on the
14 sampling analysis that was in the site
15 investigation, do you recall what the substances
16 were in Dead Creek Segment A that need to be
17 cleaned up?

18 A The substances we were mainly
19 dealing with here were PCBs, polychlorinated
20 biphenyls, metals, and some miscellaneous other
21 semi-volatile compound.

22 Q Okay. Do you remember which
23 specific types of metals were at issue?

24 A I call the more significant ones
25 being cadmium and lead.

1 Q Were there any others that were of
2 significance that you recall?

3 A There could have been. We were
4 mainly concerned with those simply because of the
5 greater toxicity. I'm sure that with some the
6 other while, as far as cadmium and lead are
7 concerned, there is usually various other trace
8 metals you do find associated with that.

9 Q Do you know whether cadmium, or
10 lead, or PCBs are mobile in the groundwater?

11 A Generally they are not.

12 Q Okay. Did Cerro do any ground water
13 testing in its site investigations?

14 A Not to my knowledge.

15 Q And IEPA did not require them to do
16 any in connection with that study?

17 A No.

18 Q Was the need to perform groundwater
19 testing considered?

20 A It might have been considered, but
21 the primary exposure pathway was persons coming
22 into contact with the material as it volatiled out
23 of the creek as opposed to persons coming into
24 contact with groundwater.

25 Q Do cadmium, lead, or PCBs volatize

1 to any significant extent?

2 A To -- well, obviously cadmium and
3 lead do not volatize, they are metals, they are --
4 basically adhere to the creek sediment as do PCBs.
5 PCBs in the concentrations we had found there can
6 be at very high concentrations. Most minor
7 volatizations are classified as semi-volatiles, so
8 there is something of an effect.

9 Q Do you recall whether Cerro fully
10 tested any of the sediment at the surface for PCBs?

11 A The sediment at the surfaces were
12 tested for PCBs.

13 Q Do you recall whether any
14 significant concentrations of PCBs were found in
15 the surface sediments?

16 A Yes, there were. There were very
17 high levels of PCBs.

18 (Whereupon the Reporter marked Deposition
19 Exhibit Number 11 for identification as requested.)

20 Q (By Mr. Ryder) Let me hand you
21 what's been marked as Takacs Deposition Exhibit 11,
22 which for the record on its face says, "Cerro
23 Copper Products Company, Status Report, Dead Creek
24 Sector A" and ask if you can identify that
25 document?

1 A Yes, I can.

2 Q It bears a document identification
3 number C00044 and renumber 004080. Let me ask if
4 you could turn to renumber page 004166. Which --
5 could you state what that page and the next page
6 are?

7 A These could be -- 4166 and 4167?

8 Q Yes.

9 A This is a basic list of various
10 constituents that were sampled for in the creek
11 segments.

12 Q Okay. And can you -- can you
13 explain if you know what the sample ID numbers
14 signify that are on the left-hand side of the page?

15 A These correlate to various Sectors
16 within Creek Segment A that Cerro Copper was
17 sampling.

18 Q Do you know what the A10 or A11A
19 stand for in those identifications?

20 A In this? Yes, these refer again
21 locations. And the locations are going to be
22 referenced somewhere in this text over here. We
23 were referring to questions of what these As --
24 these designations were?

25 Q Right.

1 A Okay. These refer to some sectors
2 in various zones. There is an illustration on 4090
3 that gives you an idea of which sector these are
4 in. A would stand for Creek Segment A10, which
5 would be the 10 sector as noted on 4090. And then
6 the designation after it, your A, B, C, or D are
7 simple points along the east-west access of the
8 creek.

9 Q And what about the numbers that
10 follow on the sample identifying 6-7 in the first
11 entry?

12 A Those would be the sample intervals
13 with each boring. There were several intervals
14 that were sampled. 6-7 on the first one, at the
15 top here corresponding to A10 corresponded to a
16 depth of 6 to 7 feet.

17 Q This particular copy, I don't think
18 it's legible on the copy that was here, but on the
19 personal copy of Cerro employee whose marks appear
20 on here and he went through and apparently circled
21 some of the high PCB findings in the further
22 right-hand column. Do you see that?

23 A Yes.

24 Q Do any of those samples appear at
25 the surface, any of the high samples that are

1 found?

2 A At the surface I cannot tell any of
3 these tables, because if you note the -- I believe
4 the identified surface sample was being taken --
5 the identify should be like 0 to 1, whereas these
6 are deeper.

7 Q That is precisely my point, yes.

8 A Okay.

9 Q Okay.

10 (Whereupon the Reporter marked Deposition
11 Exhibit Number 12 for identification as requested.)

12 Q (By Mr. Ryder) Let me hand you
13 what has been marked as Takacs Deposition Exhibit
14 12 and ask you if you could take a look at that.
15 And it, for the record, it appears to be a letter
16 dated April 20th, 1990, from Christopher Bade,
17 B-a-d-e, to Mr. Takacs. And it bears a document ID
18 No. C00054. Do you recognize this document?

19 A Yes.

20 Q Was this the first time that Cerro
21 or a Cerro agent had communicated to you their
22 recommended remedial alternative?

23 A I couldn't really tell. The third
24 paragraphs notes -- third paragraph notes that they
25 would be happy to make further revisions, so it

1 implies that, well, according to this letter it is
2 implying that I have seen something else before and
3 that this may be something of a final document, or
4 almost final document; but I wouldn't be able to
5 tell you if this was the first time or not.

6 Q Okay. Do you recall what Cerro's
7 recommended remedial alternative was?

8 A Yes.

9 Q What was that?

10 A This was a removal with disposal at
11 off-site landfill or landfills.

12 Q Was anything -- strike that. Was
13 there a concern at IEPA with respect to the surface
14 water that contamination of the surface water that
15 was contained in Creek Sector A?

16 A Was it of concern to us?

17 Q Was it of concern to you?

18 A Yes, it was.

19 Q Did this proposed remedial proposal
20 address the surface water?

21 A I can't recall if it did. The
22 surface water that was in Creek Segment A during
23 the course of the actual removal action was not a
24 great concern because of the way in which the
25 removal action was being performed. The material

1 was basically excavated and then laid on a sand bed
2 where it was allowed to naturally drain through the
3 sand and then the material that was remaining above
4 the sand layer, being somewhat dryer, was taken to
5 the landfill.

6 Q What happened to the water that
7 drained from the sediment on the sand bed?

8 A That would have percolated into the
9 aquifer, into the groundwater.

10 Q Was any testing done to see whether
11 that water that percolated was carrying
12 contaminants with it?

13 A No, but that effect wasn't of a real
14 grave concern.

15 Q Why is that?

16 A Mainly because the groundwater was
17 really already contaminated with similar compound
18 up gradient of where Creek Segment A was, the
19 source of these compounds being Site I.

20 What was found out Site I in the
21 landfill, as far as groundwater is concerned, would
22 have gone right under the creek out underneath the
23 plant and towards the river and, again, the
24 contaminants were the same.

25 Had the material not been put up on

1 sand beds, the water eventually would have
2 percolated through into the aquifer anyhow, you
3 know, as the water table, you know, moves up and
4 down, or it would have just evaporated.

5 (Whereupon the Reporter marked Deposition
6 Exhibit Number 13 for identification as requested.)

7 Q (By Mr. Ryder) I will show you
8 what's been marked as Deposition Exhibit 13 which
9 is a letter with an attachment dated May 8th, 1990,
10 from James Morgan to Michael Rodburg and James
11 Stewart showing a copy to you, Mr. Takacs, and
12 bearing identification number J012425. Do you
13 recognize this document?

14 A Yes, I do.

15 Q Can you describe what the attachment
16 to this letter is?

17 A The attachment to this was a consent
18 decree that was drafted by the Illinois Attorney
19 General's office to cover this removal action that
20 we were about to undertake.

21 Q Is this, in fact, a revision by the
22 Attorney General's office of a draft which was
23 originally prepared by Cerro's attorneys?

24 A It appears to be some kind of
25 modification.

1 Q Did you participate at all in the
2 preparation of any of the language in this draft
3 consent decree?

4 A I do recall reviewing it. In terms
5 of drafting language in here, I don't believe I
6 drafted any language here.

7 Q Okay.

8 (Whereupon the Reporter marked Deposition
9 Exhibit Number 14 for identification as requested.)

10 Q (By Mr. Ryder) Let me show you
11 what's been marked as Takacs Deposition Exhibit 14
12 which appears to be a letter from you to Raymond
13 Avendt dated May 7th, 1990; is that correct?

14 A Yes.

15 Q It is bearing document
16 identification number J005891 and 92, would you
17 state what the subject of this letter was?

18 A The subject of this letter was to
19 provide comments on the Cerro Copper generated Site
20 Investigation/Remedial Alternatives Evaluation
21 Report.

22 Q With respect to paragraph one, the
23 last sentence states in part that the Avendt Group
24 should analyze further sediment samples using the
25 TCLP test.

1 A Yes.

2 Q Do you know whether that -- whether
3 further sediment analysis or further sediment
4 samples were, in fact, analyzed?

5 A I can't recall.

6 Q I direct your attention to paragraph
7 3. It states, "Draining liquid from excavated
8 creek sediments back into the creek is considered
9 'placement' according to RCRA standards. This
10 action would be prohibited since the excavation
11 does not meet RCRA minimum technology
12 requirements."

13 Do you know what the RCRA minimum
14 technology requirements are?

15 A That particular comment I had
16 compiled from my RCRA reviewer.

17 Q Okay. So you are basing that
18 comment on your reviewer's input, not on your own
19 recommendations?

20 A Yes.

21 Q Was that issue resolved with Cerro?

22 A I recall us having a meeting on it
23 after May 7th, and I believe it was resolved.

24 Q Do you remember how it was resolved?

25 A I recall Michael Rodburg sending us

1 a letter. I recall the letter as defining, I
2 guess, what placement is and there was some
3 rational, I guess, that he said that this action
4 was, you know, what Cerro was willing to do here
5 was not considered actual placement, and that I
6 believe upon review of that letter, I think we
7 decided that is -- that the action that Cerro was
8 going to undertake, meaning draining liquid, was
9 not considered placement, no.

10 I want to point out, though, that
11 I'm not an expert on RCRA and with this comment I
12 was relying heavily on my RCRA person's input here.

13 Q Was your RCRA person a person by the
14 name of Rob Watson?

15 A Yes.

16 (Whereupon the Reporter marked Deposition
17 Exhibit Number 15 for identification as requested.)

18 Q (By Mr. Ryder) Let me hand you
19 what has been marked as Takacs Deposition Exhibit
20 No. 15 and ask you if that is the letter to which
21 you were just referring in your testimony?

22 A Yes, it is.

23 Q Okay. Were all of the other
24 concerns that you expressed in your Exhibit 14
25 letter satisfied subsequently by or in the course

1 of your negotiations with Cerro?

2 A I believe they were.

3 (Whereupon the Reporter marked Deposition
4 Exhibit Number 16 for identification as requested.)

5 Q (By Mr. Ryder) Let me show you
6 what has been marked as Takacs Exhibit No. 16,
7 which is, for the record, appears to be a
8 memorandum which you authored dated June 4, 1990,
9 and bears document identification number J012463
10 through 65. Do you recognize this document?

11 A Yes.

12 Q And is it, in fact, what it purports
13 to be?

14 A Yes, it is.

15 Q You reference -- in the second
16 paragraph, you reference, "last meeting held on
17 March 22." Was that a previous meeting of Area 1
18 PRPs?

19 A It may have been.

20 Q You don't recall definitely?

21 A I don't recall, no.

22 Q And you -- is this memorandum a
23 report on a meeting of PRPs which occurred on May
24 31 of 1990?

25 A Yes.

1 Q Was Cerro's plan to proceed with the
2 clean up of Dead Creek Segment A addressed in this
3 meeting, do you recall?

4 A I don't think at this particular
5 meeting, this May 31 of 1990 meeting, that we
6 really discussed many details about the Cerro
7 Copper removal action. This meeting, I believe,
8 was the first meeting that we had for all of the
9 Area 1 PRPs which we had identified. The purpose
10 of this meeting was to find out once again if this
11 group of PRPs as noted on the last page of this
12 exhibit, if they were willing to proceed with an
13 Area 1 RI/FS.

14 Q On the second page of the document
15 it references a further meeting to be held on June
16 the 6th. Do you recall, did that meeting take
17 place?

18 A I don't recall.

19 Q Okay.

20 (Whereupon the Reporter marked Deposition
21 Exhibit Number 17 for identification as requested.)

22 Q Let me show you what has been marked
23 as Takacs Exhibit 17 which is -- which appears to
24 be a letter dated June 11th, 1990, from Michael
25 Rodburg to you which bears a document

1 identification number J000144. Do you recognize
2 this document?

3 A Vaguely.

4 Q Okay. Do you recall the issue that
5 was being addressed in this letter?

6 A It might be the need for TCLP
7 testing; I'm not really sure, though.

8 Q In the second paragraph on the
9 second page, Mr. Rodburg states that, Cerro Copper,
10 based on previous analysis -- and I'm paraphrasing
11 here -- would expect concentrations of lead and
12 cadmium to be well below levels of 5 milligrams per
13 liter and 10 milligrams per liter respectively?

14 A Yes.

15 Q Do you see that?

16 A Yes.

17 Q Do you know whether those
18 concentrations were, in fact, exceeded by the
19 sediment which was excavated at the site?

20 A I would have to look at the report
21 to be able to tell you that.

22 Q If those levels had been exceeded,
23 could you say how that would have affected the
24 manner in which the cleanup was performed?

25 A Well, if the levels were exceeded,

1 basically it would have been -- it would have been
2 a hazardous waste in which we were dealing with.
3 As far as how this could have affected the cleanup,
4 I suspect Cerro would have had to have made some
5 commitment with the landfill somewhere that would
6 address the existences of those standards.

7 Q How would those existences have been
8 addressed?

9 A Well, those existences would have
10 been addressed by separating this type of waste and
11 sending it to a landfill that would accept
12 hazardous waste. It might have been a question of,
13 again, making a commitment with a landfill that
14 would accept it. It would not have affected the
15 overall schedule.

16 Q Are you familiar with what landfills
17 that are in the region except hazardous waste?

18 A In the region, are we talking about
19 Illinois?

20 Q Illinois or the surrounding states?

21 A I'm somewhat familiar.

22 Q Can you identify some of those
23 landfills?

24 A Well, the landfills that I am more
25 familiar with are the ones that Cerro Copper used,

1 those would be the Chemical Waste Management
2 landfills at Lake Charles, Louisiana; Emelle,
3 Alabama; and I'm familiar with our CID landfill up
4 near Chicago. It's my understanding in terms of
5 how Cerro separated these wastes was that, you
6 know, wastes that were hazardous went to a certain
7 landfill; wastes that were PCBs went to perhaps
8 another landfill; wastes that were mixed could have
9 gone to another landfill; and the non-hazardous
10 waste, which we actually did find here in Creek
11 Segment B, I do recall as going to the CID landfill
12 here in Illinois.

13 Q Creek Sector A?

14 A I'm sorry?

15 Q I thought you said Creek Sector B?

16 A I'm talking about Creek Segment A,
17 yes.

18 Q Do you know if there are landfills
19 which are closer to Sauget, Illinois, than the
20 landfill Cerro selected that would have accepted
21 the waste that was being disposed of here?

22 A No. I'm not aware of any that are
23 closer.

24 (Whereupon the Reporter marked Deposition
25 Exhibit Number 18 for identification as requested.)

1 Q (By Mr. Ryder) Let me show you
2 what has been marked as Takacs Deposition Exhibit
3 18 and ask you if you recognize that?

4 A Yes, I do.

5 Q Is that a letter from you to Raymond
6 Avendt dated June 13 of 1990?

7 A Yes, it is.

8 Q In the first sentence you have
9 stated this is in regards to IEPA's insistence that
10 a vapor barrier be installed after the removal. It
11 had been decided that at a minimum, a clay liner
12 would be necessary?

13 A Yes.

14 Q What was a -- why was IEPA insisting
15 that a vapor barrier be installed?

16 A Our concerns were related to a
17 volatization of the Site I contaminants -- Site I
18 being up gradient. The contaminant at Site I could
19 have gone through the old Creek Segment A basin
20 into a more porous medium, which was what Creek
21 Segment A was backfilled with. Our concerns were:
22 Was groundwater passing from Site I and would move
23 into Creek Segment A after the remediation was done
24 and volatization could take place in the lesser
25 porous, newly filled-in creek, Segment A.

1 Q Was a vapor barrier, in fact,
2 installed as part of the cleanup?

3 A Yes, it was.

4 Q What kind of a vapor barrier was
5 installed?

6 A I can't recall, but it's in the
7 final report.

8 Q In the last sentence in the first
9 paragraph, you state that IEPA proposes that an
10 air-monitoring program be implemented to monitor
11 post-removal emissions and determine if further
12 actions are necessary?

13 A Yes.

14 Q Was that program, in fact,
15 implemented?

16 A No, it was not.

17 Q What was the reason for that?

18 A I think the level that the vapor
19 barrier would, in fact, prohibit this volatilization
20 from moving from Site I into the filled-in Creek
21 Segment A.

22 (Whereupon the Reporter marked Deposition
23 Exhibit Number 19 for identification as requested.)

24 Q (By Mr. Ryder) Let me show you
25 what has been marked as Takacs Deposition Exhibit

1 19 and ask if you recognize that document?

2 A Yes, I do.

3 Q Is that an IEPA news release dated
4 July 5th of 1990?

5 A Yes.

6 Q Did you have any input in the
7 preparation of this press release or news release?

8 A This particular one I did not.

9 Q Who prepared this?

10 A This would have been prepared by our
11 community relations coordinator for the Sauget
12 sites, Keri Luly, her name is listed at the top of
13 the first page. And I believe my boss, Terry
14 Ayers, reviewed it to make sure that everything was
15 factual.

16 Q Okay. Let me show you what has been
17 marked as Takacs Deposition Exhibit No. 20 and ask
18 if you recognize that document.

19 A Yes.

20 Q Is it a letter from Michael Rodburg
21 to yourself and James Morgan dated July 16th, 1990?

22 A Right.

23 Q Could you describe what the
24 attachments to this letter are?

25 A This is basically an -- I guess a

1 some kind of chronological progression of Creek
2 Segment A activities, basically from our
3 involvement with that expanded site investigation
4 up to probably close to July 16th, of 1990.

5 Q Okay. Is this a list of data and
6 correspondence that Cerro had concerning the Dead
7 Creek Segment A?

8 A Yes, and in their possession.

9 Q Did anyone from IEPA review these
10 files?

11 A I might have. I might have reviewed
12 them when I received this letter back then.

13 Q Where were the files produced to
14 you, do you recall?

15 A The files referenced here?

16 Q Yes.

17 A I don't believe we received files.
18 This letter says that, you know, if there is
19 anything we wanted that is on this list, that they
20 would send it to us.

21 Q Right. And my question is: Did you
22 ask them to provide you with any of the -- any of
23 the materials that are listed there?

24 A No.

25 Q Okay.

1 A At least I didn't. This letter was
2 also addressed to James Morgan here.

3 Q Right. You are not aware whether he
4 asked for any of those documents?

5 A No.

6 (Whereupon the Reporter marked Deposition
7 Exhibit Number 21 for identification as requested.)

8 Q (By Mr. Ryder) Let me show you
9 what's been marked as Takacs Deposition Exhibit
10 No. 21 and ask if you can identify that document.

11 A Yes, I am familiar with this.

12 Q Is this a letter from Michael
13 Rodburg to James Morgan with a copy to you dated
14 July 26th of 1990?

15 A Yes, it is.

16 Q Okay. In the first sentence of this
17 letter, Mr. Rodburg states that "The public
18 information community relations actions taken in
19 conjunction with the site are more than adequate to
20 meet the requirement of the National Contingency
21 Plan, Section 300.415(m)." Do you see that?

22 A Yes.

23 Q Are you familiar with the
24 requirements of the Section 300.415(m) of the
25 National Contingency Plan?

1 A I am somewhat familiar.

2 Q Can you generally describe what
3 those requirements are?

4 A They generally say that there has to
5 be some kind of -- I mean, in a very general sense,
6 you know, you have to have some type of community
7 relations plan and some kind of outlet to the
8 public so that anyone living in the area or any
9 concerned person could have access to what is going
10 on at the site.

11 Q Okay. He -- in the second
12 paragraph, Mr. Rodburg asks if he could conference
13 with you and Mr. Morgan and Ms. Luly to discuss
14 several topics. Do you see that?

15 A Yes.

16 Q Did such a conference ever take
17 place?

18 A I don't believe it ever did.

19 Q Okay. Did IEPA conduct interviews
20 with local official community residents, public
21 interest groups, or other interested or affected
22 parties concerning their involvement in the cleanup
23 process?

24 A That would have been Keri Luly's
25 responsibility. And I believe -- and I believe

1 that she did notify -- I believe she notified the
2 mayor of Cahokia and perhaps the mayor of Sauget,
3 but you will have to talk to her about that to get
4 your final.

5 Q Are you not aware of whether they
6 actually conducted interviews with them?

7 A I am not aware of that no, no.

8 Q Do you know whether Cerro conducted
9 any interviews with any of these people?

10 A No, I'm not.

11 Q Do you know whether IEPA prepared a
12 formal community relations plan with respect to the
13 cleanup of Dead Creek Segment A?

14 A With respect to the actual cleanup,
15 none was prepared.

16 Q Do you know whether Cerro prepared
17 such a plan?

18 A I would have to check just to make
19 sure. I don't -- I would have to check.

20 Q You are not certain whether one was
21 prepared by Cerro?

22 A No, I could tell you one that was
23 not prepared by us, though, IEPA.

24 Q Okay. Did IEPA ever organize any
25 public meetings to discuss the cleanup of Dead

1 Creek Segment I?

2 A We did not organize a meeting in our
3 news release. We did make it clear that if people
4 had questions -- I would probably have to look at
5 it. It is right there.

6 Q By all means, take a look at that.

7 MR. MORGAN: Look at Exhibit 19 here.

8 A Yes. Our -- what we said here in
9 our news release was that if citizens or local
10 officials wanted to know more about this removal
11 action that they were welcome to, you know, review
12 the final, "Site Investigation/Feasibility Study
13 for Creek Segment A" at either the Cahokia public
14 library or the Sauget, S-a-u-g-e-t, village clerk's
15 office. To my knowledge, no one had any questions
16 or any concern about this project.

17 Q Okay. At the time that this press
18 release was issued, the consent decree was
19 entered -- was -- in fact, had been entered the
20 same day; is that correct?

21 A Yes. This press release was to
22 announce the signing of this consent decree.

23 Q And did the consent decree require
24 Cerro to perform the clean up in the manner stated
25 in the Site Investigation Feasibility Study?

1 A I believe it did.

2 Q If you are not sure, I have got a
3 copy you can take a look at.

4 A I -- yeah, the copy of it would
5 verify it.

6 (Whereupon, there was a short recess
7 taken).

8 (Whereupon the Reporter marked Deposition
9 Exhibit Number 22 for identification as requested.)

10 Q (By Mr. Ryder) Okay. If you
11 could take a look, Mr. Takacs, at Deposition
12 Exhibit 22 which -- and do you recognize that
13 document?

14 A Yes, I do.

15 Q And is that the consent decree that
16 was entered with respect to the cleanup of Dead
17 Creek Segment A?

18 A Yes.

19 Q If you would, look at paragraph 5 B
20 on page 4 and 5 of the consent decree?

21 A Yes.

22 Q Does that say that, "Cerro shall
23 commence performance of the removal action in
24 accordance with," among other things, the RI/FS?

25 A Yes.

1 Q And is the RI/FS that is referred to
2 here, the Site Investigation Feasibility Study,
3 that we have previously discussed?

4 A Yes.

5 Q Okay.

6 (Whereupon the Reporter marked Deposition
7 Exhibit Number 23 for identification as requested.)

8 Q (By Mr. Ryder) Let me show you
9 what has been marked as Takacs Deposition Exhibit
10 No. 23 and ask you if you recognize that document?

11 A Yes, I familiar with this one.

12 Q Is that a letter to you from Joseph
13 Grana, G-r-a-n-a, dated August 28th, 1990?

14 A Yes, it is.

15 Q What is the subject of this letter?

16 A The subject was that Cerro was
17 having problems in dewatering the Creek sediment in
18 order for the Creek sediment to be dumped in the
19 trucks and hauled off to the landfill. You can't
20 have excessive water floating around. And what had
21 happened here was that the -- as I recall, this
22 section of Creek Segment A that we were having the
23 dewatering problems at was the section of the creek
24 that had the lowest elevation. And I believe it
25 had recently rained and that area, being the lowest

1 point or being a lower point than Creek Segment A,
2 was filled with water.

3 Q What did you and IEPA do in response
4 to the request in this letter to use a hydrating
5 agent?

6 A Could you repeat that?

7 MR. RYDER: Please read that back.

8 (Whereupon, the Reporter read back the
9 last question as requested.)

10 A Cerro's recommendation was to use a
11 hydrating agent which would simply, you know,
12 remove the water and everything. And we went along
13 with that for the purposes of dewatering and only
14 dewatering that portion of the --

15 Q (By Mr. Ryder) What is a
16 hydrating agent -- I'm sorry, had you finished your
17 answer?

18 A Yes.

19 Q What is a hydrating agent?

20 A A hydrating agent is something that
21 you could put on a somewhat wet material to
22 accelerate the drying process.

23 Q Can you give me some examples of
24 what a hydrating agent might be?

25 A Calcium oxide.

1 Q Is that what was used in this
2 instance?

3 A Yes.

4 Q What steps did you and IEPA take to
5 determine whether or not to grant Cerro's request?

6 A Well, we basically did grant Cerro's
7 request to do it. I'm not sure if I understand the
8 question.

9 Q What did you consider in making the
10 decision to grant that request?

11 A I think that we were considering
12 that in order for Cerro to remove this creek
13 sediment, which had a lot of water in it -- we had
14 to use some type of hydrating agent, otherwise the
15 material would have remained in place and we would
16 have been left with waste and that would have been
17 inconsistent with the consent decree which called
18 for full removal of all the waste, the creek
19 sediment.

20 Q Did you review any of the issues
21 that were raised concerning RCRA compliance in
22 determining whether or not it was appropriate to
23 grant this request?

24 A I believe I talked to Rob Watson
25 about it. And I don't recall what Rob said, but

1 obviously we did allow it. The calcium oxide was
2 put on it to dewater it and that was pretty much
3 it.

4 Q Okay. You mentioned earlier that
5 there was some non-hazardous waste that was -- or
6 non-hazardous sediment, I'm sorry, that was found
7 in Dead Creek Segment A; is that correct?

8 A Yes.

9 Q When you say non-hazardous, what do
10 you mean by that term?

11 A In order for it to be a hazardous
12 waste, in this situation, it would have to have
13 exceeded the EP tox standards, which the only
14 compound in this Creek's sediment which was causing
15 the sediment to be hazardous I believe was either
16 lead or cadmium. Those were the major ones I
17 recall offhand. And at this particular cell, we
18 did not have any levels of the lead or cadmium that
19 exceeded those standards nor did we find PCBs that
20 were above the 0 parts per million cutoff.

21 Q Okay. Now, did Cerro dispose of
22 that non-hazardous creek sediment?

23 A They disposed of that at the CID
24 landfill.

25 Q Okay.

1 (Whereupon the Reporter marked Deposition
2 Exhibit Number 24 for identification as requested.)

3 Q (By Mr. Ryder) Let me show you
4 what's been marked as Takacs Deposition Exhibit
5 No. 24 and ask if you recognize that document?

6 A Yes, I do.

7 Q Is that a letter from Joseph Grana
8 to Larry Eastep, E-a-s-t-e-p, with a copy to you
9 and Mr. Morgan?

10 A Yes, it is.

11 Q And what is the subject of that
12 letter?

13 A The subject was that over the course
14 of this removal action, some non-hazardous creek
15 sediment was found and Cerro was making a request
16 to Mr. Eastep that this material be disposed of as
17 a non-hazardous waste, meaning non-RCRA, R-C-R-A,
18 and non-TOSCA, T-O-S-C-A, sediment and Cerro Copper
19 was also asking for an expedited disposal permit
20 for this.

21 Q And the first sentence, it refers to
22 a special waste disposal permit application. What
23 is special waste? Or is that -- is that in fact a
24 correct usage?

25 A That is a more correct term for the

1 type of waste that we were looking at.

2 Q Could you tell me what makes this
3 constitute special waste?

4 A Basically my limited understanding
5 of what RCRA waste and TOSCA waste is that special
6 waste is something that is neither, that was for
7 the purposes of this project.

8 Q If it was neither, why was any
9 permit necessary at all?

10 A Well, I guess as a special waste,
11 this must have been an application for what was
12 classified as a special waste permit. I assume.
13 Again, I'm not as familiar as what I should be on
14 waste constituents.

15 Q Okay. Did you believe it was
16 necessary for -- strike that. What was the
17 landfill to which Cerro desired to send this
18 non-hazardous waste?

19 A The CID landfill.

20 Q Where is that located?

21 A That is outside of Chicago
22 somewhere.

23 Q Is that a RCRA approved landfill?

24 A I don't know offhand.

25 Q Could the non-hazardous waste have

1 been disposed of at a regular sanitary landfill?

2 A I'm not sure.

3 Q Okay. Could it have been left on
4 site?

5 A I'm not sure, either.

6 Q Okay. Is -- now, you mentioned that
7 you are familiar with the landfills that Cerro used
8 for disposal of the waste or the Creek sediment
9 from Dead Creek Segment A; is that correct?

10 A Yes, I am familiar.

11 Q Are you familiar with a landfill
12 known as the Peoria Disposal Company Facility in
13 Pottsville, Illinois?

14 A I think that is the CID landfill.

15 Q Okay.

16 A I think we are talking about the
17 same thing.

18 Q Are you familiar with a waste
19 management landfill in Madison, Illinois?

20 A No, I'm not familiar with that.

21 Q Okay. Did you have any role in the
22 selection of the contractors that Cerro used for
23 the clean up of Dead Creek Segment A?

24 A I would have to look at the consent
25 decree to find out if we had rights for that. As

1 far as I can tell from looking at this consent
2 decree within this period of time, I could not find
3 if we had any say as to what contractors Cerro was
4 going to be using.

5 Q You don't recall participating in
6 that decision; is that correct?

7 A I don't recall.

8 Q Okay. Did you review any of the --
9 any of the actual invoices or costs that Cerro was
10 charged for its cleanup by its contractors?

11 A I did not look at -- I don't believe
12 I did.

13 Q Okay.

14 A Were you talking about in terms of
15 individual invoices as the project was proceeding?

16 Q Yes.

17 A Okay. No, I was not.

18 Q Okay. Are you referring to the
19 facts that in the final report there is a listing
20 of the costs that Cerro incurred, is that what you
21 were thinking of?

22 A Right. That is what I was thinking
23 of.

24 Q As your project was going, did you
25 not review those costs to see whether or not Cerro

1 was being overcharged for anything?

2 A No, I was not doing that.

3 Q You mentioned earlier that the
4 substances of concern at Dead Creek Segment A were
5 metals, particularly cadmium and lead PCBs, and
6 several volatile or semi-volatile organics; is that
7 correct?

8 A Yes.

9 Q With respect to the volatile and
10 semi-volatile organics, do you recall whether any
11 of those were actually found at levels requiring
12 cleanup in Creek Segment A?

13 A I would have to look at the -- at
14 data on that to make sure.

15 Q Okay. You don't recall as you sit
16 here today?

17 A I don't recall. What I do recall
18 was that, you know, PCB, lead, and cadmium were the
19 major contaminants that we were finding and I do
20 know that there were others in addition to those,
21 but --

22 Q Okay. Were those additional
23 chemicals added to the screening process after the
24 cleanup had actually begun?

25 A I believe everything was considered

1 before, you know, the removal action was going. As
2 to whether or not if these compounds were being
3 sampled for during, I can't really recall.

4 (Whereupon the Reporter marked Deposition
5 Exhibit Number 25 for identification as requested.)

6 Q (By Mr. Ryder) Let me show you
7 what has been marked as Takacs Deposition Exhibit
8 No. 25 and ask if you can take a look at that. Do
9 you recognize that document?

10 A Vaguely. Yes, I do.

11 Q Okay. Is this a letter from Joseph
12 Grana to Bruce Miller dated September 24, 1990,
13 with a copy to you, among others?

14 A Yes.

15 Q If you could take a look at the
16 first two paragraphs of that letter, does that
17 refresh your recollection as to whether or not the
18 additional organic chemicals were being considered
19 prior to the date of this letter?

20 A Yes.

21 Q Were they?

22 A Yes, they were.

23 Q Okay. Then why are they talking
24 about expanding the characterization analysis to
25 cover five additional compounds?

1 A In terms of the sampling that was
2 going on at this stage, in order for the material
3 to be loaded up on the truck going out to the
4 landfill, the landfill operator was probably doing
5 considerably more tests than what was done in the
6 Site Investigation Feasibility Study. The
7 objective of the Site Investigation Feasibility
8 Study was just to get a general idea as to what,
9 you know, the major contaminants were and then as
10 we proceeded throughout the removal project, again
11 with considerably more testing, a lot of mixing
12 that was going on when we had to dewater the
13 sediment, these contaminants appeared.

14 Q Okay. Was there a change in the law
15 that took effect on or about September 25th, 1990,
16 that affected these chemicals?

17 A I recall something to that effect.

18 Q Do you recall what that change was?

19 A Probably talking about it here in
20 this exhibit, but all I was aware of, I guess at
21 this stage, was that Cerro was concerned with, I
22 guess, expanding the list of contaminants here, but
23 as to what rules and regulations might have
24 changed, I am not real familiar with those.

25 Q Okay. Was the clean up of Dead

1 Creek Segment A completed to your satisfaction?

2 A Yes, it was.

3 Q Does -- do you or does IEPA
4 presently contemplate that any additional clean up
5 needs to be perform at Dead Creek Segment A?

6 A We do not.

7 Q Okay.

8 A I should probably point out in
9 reference to that last question, at this time we do
10 not anticipate. I think that is what you asked.

11 Q Yes, that is what I asked.

12 (Whereupon the Reporter marked Deposition
13 Exhibit Number 26 for identification as requested.)

14 Q (By Mr. Ryder) Let me show you
15 what has been marked as Takacs Deposition Exhibit
16 No. 26 and ask if you could take a look at that.
17 Do you recognize that document?

18 A Yes, I do.

19 Q Is that a letter from you to Joseph
20 Grana dated May 22, 1991?

21 A Yes, it is.

22 Q And what was the subject of this
23 letter?

24 A The subject of this letter was
25 actually my comments to Joe Grana for regarding the

1 final report. As outlined in the consent decree,
2 Cerro was to produce to Illinois EPA a final report
3 covering all of the activities, how they were done,
4 etc. And these were the comments that I had on
5 that particular report.

6 Q Okay. Were these essentially all
7 the comments that you had with respect to that
8 report?

9 A I recall there might have been some
10 more minor comments I think that -- I'm not sure if
11 Jim Morgan had comments on this, too. But this was
12 a substantial, if not all, of my comments here.

13 Q Did Cerro respond to all of these
14 comments to your satisfaction?

15 A Yes, they did.

16 Q Okay.

17 MR. RYDER: Your witness.

18 MR. NOLAN: Good afternoon, Mr. Takacs.
19 My name is John Nolan. I'm an attorney for the
20 Cerro Copper who is the Plaintiff in this matter.
21 If I could, I would like to ask you some follow-up
22 questions to your testimony from this morning.
23 Also I will ask you probably some other questions
24 and hopefully I will keep it short and to the
25 point.

EXAMINATION

QUESTIONS BY MR. NOLAN:

Q Is it my understanding that you began your involvement or your relationship with Sector A Dead Creek some time in 1989?

A Yes.

Q Do you recall what month?

A I can tell you that I believe it was about May of 1989. I had only had the project for, quite frankly, a few days. And as you can see from the memo that I had written, that my predecessor was also there at the first meeting and that is when I first was aware that Cerro was going to be pursuing some type of action in Creek Segment A.

Q Your predecessor, am I correct, was Jeff Larson?

A Larson.

Q What happened that caused him to be removed -- did anything happen that caused him to be removed from the project and you came on board, or was this something else that happened?

A He was just pursuing his career; that was his reasons for leaving.

Q Do you recall if there was ever a list of PRPs prepared for Area 1?

1 A Yes, there were actually several
2 lists.

3 Q Do you recall if there was an --
4 even a list of PRPs prepared for Dead Creek Segment
5 A?

6 A I can't recall offhand.

7 Q Okay. Did you -- or to your
8 knowledge, did IEPA have an idea as to who the PRP
9 would be for Dead Creek Segment A?

10 A At first we did not. Later on,
11 Cerro had given us information that said that Dead
12 Creek Segment A was basically used as a surge
13 basin. In other words, when the area was receiving
14 a lot of precipitation, the treatment plant could
15 not handle it. A lot of the waste that's generated
16 or that were actually flushed into the Village of
17 Sauget sewers actually came to collect in this
18 creek. And, again, that was Cerro's information.

19 Q Now, did you or anyone on behalf of
20 IEPA do any independent investigation or study to
21 determine and attempt to verify the information
22 that you just described as being provided by Cerro?

23 A No, we did not.

24 Q Okay. When the IEPA looked at
25 Sauget sites, did you look at that in terms of

1 attempts to conduct a cleanup of the -- of all the
2 area, or did you intend to focus on separate
3 individual sites, or was this some other plan of
4 action that you had early on?

5 A Our plan of action in August of '89
6 was to solicit some type of area-wide study. As we
7 could see that no PRP group was forming, in other
8 words, no one was joining with Cerro because Cerro
9 had initially said they would be willing to lead up
10 an effort if somebody else would help out, too.
11 Then we felt that perhaps another way to go about
12 cleanups of Area 1 was to perhaps secure the
13 individual site cleanups.

14 Q Was one of those individual site
15 cleanups, then, Dead Creek Sector A?

16 A That was the case.

17 Q Was it your understanding that the
18 cleanup of Dead Creek Sector A would be part of an
19 overall cleanup of the area?

20 A Our understanding was that it can be
21 a partial cleanup, if you will, a hot spot removal
22 within Area 1.

23 Q Now, you just testified in answer to
24 the preceding question that you made reference to a
25 Cerro heading up an effort vis-a-vis Area 1. Did

1 Cerro express any frustration to you with respect
2 to their apparent inability to mobilize other
3 people in the area -- or other companies in the
4 area, I should say?

5 A There might have been some informal
6 frustration. But I think as far as what shows up
7 in your files and everything, I think Cerro was
8 saying, well, we believe these PRPs should be in
9 and a lot of them were not participating, and it
10 appeared to us as if Cerro was going to have to go
11 at it alone.

12 Q Did the IEPA take any steps to force
13 other PRPs to get involved in connection with the
14 cleanup of Dead Creek Sector A, but not force or
15 suggest that other -- nudged or suggest that other
16 PCPs get involved?

17 A As far as Dead Creek Segment A, I
18 don't think there was a real strong attempt from
19 IEPA to get other parties involved.

20 Q Any particular reason?

21 A Well, I think as far as we were
22 concerned, we were trying to secure some kind of
23 agreement to get some removal activities, whatever,
24 going in the area, and if Cerro was willing to do
25 it alone, we were not all that concerned with who

1 was going to be paying for it. We are mainly
2 concerned that Cerro was doing this removal action.

3 Q Did you or anyone on behalf of IEPA
4 have any conversations or discussions with Monsanto
5 regarding DC -- Dead Creek Segment A and the
6 contamination therein?

7 A No, I don't believe we had any
8 conversations with other parties regarding, you
9 know, other sources impacting Dead Creek Segment A
10 or how other sources could cooperate to get it
11 cleaned up.

12 Q Did you have any conversation with
13 Monsanto regarding Dead Creek Sector B and the
14 contamination in this portion of the Creek?

15 A Yes, we --

16 Q What were the subjects of this
17 conversation?

18 A The subjects of that conversation
19 was that Monsanto was willing to do a study of
20 Creek Segment B on their own and they were willing
21 to at least supplement the data that we had
22 gathered in Dead Creek Segment B just as what Cerro
23 had supplemented -- what data we had in Dead Creek
24 Segment A. The intent of that action, I believe,
25 was to ascertain whether or not removal could also

1 be done in Dead Creek Segment B.

2 Q Did Monsanto ever conduct a study
3 for Dead Creek Segment B?

4 A They conducted a study.

5 Q Was that the Garrient (ph.) Miller
6 study?

7 A Yes.

8 Q Do you recall when that was
9 completed?

10 A Not offhand. It might have been
11 early '92. I recall the -- I believe the field
12 work was late '91 because I had gone out there and
13 watched on two occasions.

14 Q Was there any correlation in the
15 mind of IEPA with respect to the contamination of
16 the Dead Creek Sector B and the contamination of
17 Dead Creek Sector A?

18 A There was some correlation.

19 Q Would you tell me what that
20 correlation was?

21 A The correlation between the two
22 sites was probably related to common occurrence of
23 mainly PCBs. There were quantities of other
24 contaminants as well coming from other source areas
25 in that vicinity as well.

1 Q Did IEPA ever come to any conclusion
2 as to the source of PCBs in Dead Creek Sector B or
3 in this matter any of other sites in the Village of
4 Sauget?

5 A I believe it has been stated in your
6 Expanded Site Investigation Report that the origin
7 of the contaminants in Dead Creek Segment A and
8 Dead Creek Segment B was, in general, the
9 industries around Sauget, the various landfills
10 that abutted the creek, as well as this trucking
11 firm that discharged wastes into the Dead Creek.

12 Q Do you recall the name of that
13 trucking firm?

14 A Yes, that was Wagner Truck.

15 Q And do you know what portion of Dead
16 Creek they deposited dump waste? I forget exactly
17 the term that you used.

18 A Their discharge was to Dead Creek
19 Segment B. As the report -- as I -- our expanded
20 site investigation report indicates, that operation
21 discharged weights directly into the creek and then
22 as a result of potential action by IEPA, they were
23 instructed to dig out a lagoon next to the creek
24 for the disposal of their tank washings. And my
25 understanding of how that happened was that the

1 majority of the waste there was to be concentrated
2 in that basin, which we have designated as site L
3 of the Sauget Area 1 sites, and the overflow might
4 have gone out to Dead Creek Segment B.

5 Q The creek that you just referred to
6 in this answer, am I correct that that is Segment
7 B?

8 A Yes.

9 Q Also the report that you refer is
10 that the "Ecology and Environmental Report" that
11 was issued in May of 1988?

12 A That was the one, yes.

13 Q I am correct that was a report that
14 addressed contamination in all the Sauget sites?

15 A It was a preliminary investigation
16 of all the Sauget sites.

17 Q During the actual cleanup itself,
18 were you on site, I guess, on the Cerro plant?

19 A Yes, I was.

20 Q How often were you present there?

21 A I was there approximately two or
22 three days a week.

23 Q And do you recall when you first
24 went to the site in connection with the cleanup?
25 Would it be sometime after July of 1990, July 5th

1 of 1990, the date of the consent decree?

2 A I believe it was a little bit after.

3 Q What would be your role or the
4 functions on the two or three days a week that you
5 were there during the course of the cleanup?

6 A My function was to basically ensure
7 compliance with the consent decree and to verify
8 whether or not the removal was proceeding in a
9 fashion as outlined in the consent decree.

10 Q And what was -- did you come to any
11 conclusions at the -- when the project was
12 completed vis-a-vis the responsibilities that you
13 had?

14 A Upon completion of the project, I
15 felt that the work had been carried out correctly.
16 The main concern that I had in the removal action
17 was whether or not all of the sediment was dug up
18 and placed on these sand beds, the criteria in
19 which we were using to determine if Cerro had gone
20 deep enough was mainly visual. If you can see the
21 contamination, you basically kept digging until it
22 appeared to be clean.

23 Q Did you supervise that portion of
24 the digging?

25 A Within the timeframe I was down

1 there, the two or three days.

2 Q Would you be, for example, the
3 one -- the person or one of the people who would
4 instruct to keep digging or when it got to a
5 certain point say, okay, enough digging has taken
6 place?

7 A I had that -- I believe I had that
8 authority as noted in the consent decree. I do
9 recall on one instance near the northern portion of
10 the Dead Creek Segment A, which was the more
11 contaminated portion, I did instruct on one
12 occasion the equipment operator to dig deeper than
13 what I believe Cerro was telling them. But the
14 primary responsibility of Perland Engineering,
15 P-e-r-l-a-n-d, was to ensure that the equipment
16 operators were doing the work right. I was merely
17 there basically to watch Perland, the equipment
18 operators.

19 Q When the decision had been -- was
20 made that, okay, we have dug deep enough, did you
21 have to sign off on that or approve that decision?

22 A No, I did not do that.

23 Q Do you recall if you were apprised
24 of what was going on in connection with that?

25 A I was apprised of the activities

1 through the monthly reports, the time that I spent
2 out there, as well as almost daily conversations
3 with Joe Grana and we spoke a lot about the
4 progress of the projects all throughout this
5 period.

6 Q Was he your prime contact at Cerro?

7 A Yes.

8 Q Do you recall when the SI/FS was
9 being written, were there drafts of that document
10 sent to you for your review?

11 A Yes, there were.

12 Q And did you, in fact, review them?

13 A Yes.

14 Q Did you make comments or suggestion
15 change alterations?

16 A I did make a few changes.

17 Q And then what would you do with
18 those changes, send them back to Avendt Group?

19 A I would send them back to -- I can't
20 recall if I was sending them to Avendt or Joe Grana
21 at that stage, but I would send the comments back
22 and then they would, you know, incorporate them.
23 If they had objections, they would come back and
24 tell me and then we would talk about them further
25 and reach some kind of halfway point somewhere.

1 Q Were you satisfied that --
2 withdrawn. What type of comments or changes or
3 suggestions would you typically make to the SI/FS?

4 A I would have to look at the actual
5 comments. I think in these lists of the exhibits
6 here, I think I noted a few of them.

7 Q They would be reflected in the
8 exhibits that we have gone through earlier today?

9 A I believe they were. Again, there
10 could be some additional ones. If I would have,
11 you know, verbally told Joe, you know, well, there
12 is something I missed, you know, include this. I
13 mean, I can't deny that there could be some of
14 that, too.

15 Q Joe would be Joe Grana?

16 A Yes.

17 Q To your knowledge, was any portion
18 of the Ecology or Environment or EE and R for SI/FS
19 for Dead Creek Sector A?

20 A I believe there were some summaries
21 in the SI/FS that at least mentioned the work that
22 was done by Ecology and Environment. Really the
23 basis of Cerro's field work in the SI/FS was really
24 to build on what we had, you know, done back in the
25 mid-'80s or so.

1 Q And when you say, by what we had
2 done back in the mid-80s, are you referring to what
3 would be set forth in the E and E report?

4 A Yes.

5 Q Would it be fair to say, then, that
6 you approved the incorporation of the SI/FS of
7 portions of the E and E report?

8 A Can you explain that again.

9 Q Sure. Is it the question that you
10 don't understand?

11 A The question.

12 Q My question is: Did you, on behalf
13 of the IEPA approve portions of the E and E report
14 being incorporated into the SI/FS?

15 A Yes, I did.

16 Q Now, am I correct that at some point
17 Cerro requested some guidance from you in
18 connection with the format or the outline that the
19 SI/FS would take?

20 A Yes.

21 Q Okay. Is that what you testified to
22 earlier that you sent them a draft of an EECA?

23 A Yes.

24 Q Would you tell me how that came
25 about? In other words, how Cerro came to request

1 your assistance or guidance in the outline that the
2 SI/FS should take?

3 A It's difficult to remember. I guess
4 the course of events surrounding Cerro's suggestion
5 is that I either provide an outline -- I don't know
6 if it's something that -- if it was something that
7 Cerro had suggested or if it was something that we
8 came up with on our own.

9 Q Now, earlier today you were asked by
10 Mr. Ryder if it was true that more than a year
11 elapsed between, I think, the first meeting with
12 Cerro when the cleanup actually began?

13 A Yes.

14 Q Do you know -- do you know why more
15 than a year elapsed between the first meeting and
16 when the actual cleanup began?

17 A Well, when the first meeting began
18 Cerro at that stage was talking about studies and
19 possible actions. My understanding was that they
20 performed the field work that went into the SI/FS
21 that summer.

22 Q The summer being the summer of?

23 A The summer of 1989. And then after
24 that, we were involved with negotiations, you know,
25 with this Area 1 PRP group. Some time later that

1 year, I think we got an indication that we were
2 going to be proceeding with something of an -- of a
3 removal action. And so that would have started
4 most likely late 1989 and then the report
5 generation review happened in early '90.

6 Q Could Cerro have started clean up
7 before the report was completed?

8 A The SI/FS report?

9 Q Yes, sir.

10 A No.

11 Q Did you feel that Cerro was somehow
12 dragging its feet between the first meeting and
13 when the actual cleanup began?

14 A I didn't get that impression.

15 Q Did you have any -- you testified
16 earlier today about the storm water retention basin
17 that was constructed at Cerro plant and I believe
18 you related that Cerro testified that Cerro had
19 told you that this needed to be constructed before
20 they could begin the clean up of Dead Creek A
21 because of what to do, essentially, with the storm
22 water?

23 A Right.

24 Q Did you have any input in the
25 decision-making process as to whether that needed

1 to be constructed and, if so, how it would be
2 constructed?

3 A I did not, no.

4 Q Is there any particular reason why
5 you would not have any input into that?

6 A The construction of that was
7 probably more of an -- of a water pollution issue,
8 you know, what to do with storm water runoff. I
9 only became involved in it because apparently it
10 was something that could have interfered with this
11 possible removal action, so that was -- I did not
12 have much of an involvement in that process.

13 Q Could you say that in connection
14 with the cleanup of Dead Creek Section A Cerro
15 fully cooperated with the IEPA?

16 A We felt that, yes.

17 Q Was there any other PRP in the
18 Village of Sauget that you would describe as fully
19 cooperating with the IEPA?

20 A At that time, no.

21 Q How about since that time, is there
22 any industry that would benefit that definition?

23 A To some degree, I think, since
24 Monsanto was willing at least to consider some type
25 of removal action at Dead Creek Segment B we

1 felt -- I mean, throughout that project I felt that
2 there was pretty good cooperation.

3 Q Was it your understanding that the
4 work that IEPA and Monsanto talked about, vis-a-vis
5 Dead Creek Sector B, was to be a removal action as
6 opposed to remediation?

7 A It was supposed to be a removal. I
8 don't know if it was a removal in the sense of a
9 removal, capital R removal, action or, capital R
10 remediation action. For some reason, the work was
11 done; a report was generated, but no actions took
12 place.

13 Q Was it your understanding that the
14 work that Cerro did at Dead Creek Sector -- I'm
15 sorry, the work Cerro did at Dead Creek Sector A
16 was a removal with a capital R?

17 A Yes.

18 Q And by capital R, I just mean
19 removal within the definition of the CERCLA
20 statute?

21 A Yes.

22 Q Did the IEPA have final say on where
23 the contaminated sediment was sent by Cerro?

24 A It would be in the consent decree.
25 I don't recall suggesting to Cerro that, you know,

1 the waste be, you know, the waste should be taken
2 at any particular landfill.

3 Q Was it a concern of the IEPA that
4 the contaminated sediment be sent to the
5 appropriate landfill?

6 A That was the major concern, the
7 appropriate landfill.

8 Q Did the IEPA have any problems with
9 the landfills that Cerro sent the contaminated
10 sediment to?

11 A No.

12 Q Are -- off the record.

13 (Whereupon, at this point in the
14 proceedings an off the record discussion was held,
15 which by direction was not stenographically
16 reported, after which the following proceedings
17 were conducted:)

18 Q (By Mr. Nolan) Could you take a
19 look at Takacs 10.

20 A Okay.

21 Q Is this -- does this document,
22 Takacs 10, which is a January 30, 1990, letter from
23 you to Raymond J. Avendt, is this what we were
24 talking about a few minutes ago; namely, the
25 outline that was provided by the IEPA to Cerro

1 which would have to be utilized in how the SI/FS
2 would be set up?

3 A Yes, it is.

4 Q In connection with your review of
5 the various drafts of the SI/FS, did you -- did
6 anyone else, to your knowledge, at IEPA review
7 those documents?

8 A I can't recall offhand. In terms of
9 who was involved with the review, I would have had
10 the majority of the involvement.

11 Q Was that -- was part of your job
12 responsibility to review comments on the draft
13 SI/FS reports?

14 A Yes.

15 Q Do you recall how many drafts you
16 reviewed?

17 A It might been one or two, I couldn't
18 recall.

19 Q Did you review a work plan in
20 connection with the cleanup of Dead Creek Sector A?

21 A Yes, I did.

22 Q Was that also part of your
23 responsibilities?

24 A Yes, it was.

25 Q Okay. And did you make comments and

1 additions or deletions to the work plan?

2 A As far as that work plan was
3 concerned, I do recall that I had a few minor
4 comments on that.

5 Q You eventually approved the work
6 plan that was prepared for the cleanup of Dead
7 Creek Sector A?

8 A Yes.

9 Q Do you recall if you spoke with
10 anyone else at IEPA about the work plan?

11 A Again, I can't recall offhand.

12 Q Did there come a time that you
13 requested Monsanto to provide you with title search
14 documents?

15 A I believe Monsanto just provided it
16 to us. I can't recall offhand if it was something
17 that we had asked for, or if it was something that
18 Monsanto was just volunteering.

19 Q What would you -- do you recall what
20 the purpose was in giving you title search
21 documents?

22 A I could not recall the purpose.

23 Q Do you know if it had anything to do
24 with identifying other PRPs?

25 A It's -- I really couldn't say on

1 that.

2 Q Was it part of your job
3 responsibility to identify who the various PRPs
4 were in connection with the contamination in the
5 Village of Sauget?

6 A Yes, it was.

7 Q Did you speak with anyone else at
8 IEPA or any other governmental authority or agency
9 in connection with that decision-making process?

10 A I spoke mainly in terms of the --
11 if -- are you talking about the actual PRP
12 investigation?

13 Q Yes.

14 A That was primarily done by myself,
15 the Illinois Attorney General's office, and our
16 Collinsville field office.

17 Q Am I correct that once Cerro agreed
18 to step forward and essentially clean up Dead Creek
19 Sector A, that would have ended your search to --
20 or your investigation to determine whether there
21 were any other PRPs for Dead Creek Sector A?

22 A I don't think it was as big of an
23 issue, I guess, as to whether or not, you know,
24 which other PRPs in Creek Segment A there were. We
25 were just going on basic knowledge as referenced in

1 our Expanded Site Investigation Report of 1988
2 that, in general, PRPs associated with all of the
3 Dead Creek were, you know, basically the industries
4 and the landfills.

5 Q So the IEPA's investigation analysis
6 always looked at overall -- all the sites not just
7 focused on one site, is that what you are saying?

8 A Our focus was to look at Area 1 as a
9 whole. In reality, that doesn't appear to have
10 happened.

11 Q Why is that?

12 A I think we felt that it was
13 difficult to identify various PRPs associated with,
14 you know, some of these other Area 1 landfills,
15 simply because of the lack of documents and because
16 these landfills were operated very long ago, had
17 very limited information, and all the people that
18 probably knew what was going on were gone.

19 Q Did you find a reluctance on the
20 part of other industries in the Village of Sauget
21 to cooperate with the IEPA in either determining
22 what PRPs could be or in setting up some sort of
23 structure to clean up Area 1?

24 A I think we found a reluctance in
25 terms of identifying PRPs in all of the -- with the

1 exception of section Creek Sector A, Cerro
2 identified a few, but in terms of all the other
3 industries in Area 1, I didn't really see much
4 willingness for any industry, you know, to
5 volunteer any information.

6 Cerro Copper did have some landfill
7 property owner information; but, you know, Monsanto
8 also provided some, too. But that is basically all
9 of the assistance that we got.

10 Q Did you in connection with the clean
11 up of Dead Creek Sector A, review a site safety
12 plan?

13 A Yes, I did.

14 Q Now, is the site safety plan
15 different from the work plan and different from the
16 SI/FS?

17 A The site safety plan might have been
18 a part of the work plan. It might have been a
19 stand alone document. I can't recall.

20 Q Was it part of your responsibility
21 to review and approve that site safety plan whether
22 it be part of the work plan or a stand alone
23 document?

24 A Yes.

25 Q And did you, in fact, do so?

1 A Yes, I did.

2 Q Do you recall if you approved that
3 document?

4 A I recall having some comments. It
5 was either about the health and safety document or
6 it might have been a concern that we have about who
7 was entering the site.

8 Q Well, let me interrupt you for a
9 second. I have a document here if we can mark this
10 as Takacs No. 27.

11 (Whereupon the Reporter marked Deposition
12 Exhibit Number 27 for identification as requested.)

13 A Okay. Yes, this is what I'm
14 referring to.

15 Q (By Mr. Nolan) Okay. Was that a
16 letter that was prepared by you and sent to Joseph
17 Grana?

18 A Yes, it was.

19 Q To your recollection, was all of the
20 concerns that you had as an expressed in this
21 letter addressed one way or the other by Cerro?

22 A Well, I believe so.

23 Q Earlier today you testified in
24 connection with hydrating agent at Cerro's request
25 to use a hydrating agent for dewatering purposes

1 and you also testified in connection with a vapor
2 barrier?

3 A Yes.

4 Q Am I correct that any changes from
5 the work plan had to be approved by you?

6 A Yes.

7 Q Do you recall any other changes
8 other than the use of the hydrating agent for
9 dewatering purposes No. 1; and No. 2, the vapor
10 barrier issue anything else that was different from
11 the work plan?

12 A I can't recall if there were any
13 others. There might have been.

14 Q But as you sit here today, you just
15 don't recall?

16 A I don't recall, no.

17 Q You testified earlier about
18 receiving monthly reports from Cerro; is that
19 correct?

20 A Yes.

21 Q What would you do with those monthly
22 reports?

23 A I would read them over to get a good
24 understanding of what had been going on. I was
25 able to see what was going on firsthand, you know,

1 two or three days a week, but I felt that those
2 monthly reports kind of kept me posted as to what
3 was going on the other days.

4 Q Would you have any comments --
5 withdrawn. Do you recall if you had any comments,
6 questions, instructions, for Joseph Grana after
7 reviewing those monthly reports?

8 A I don't recall any written comments,
9 or concerns, or questions, but I might have spoke
10 to him maybe over the phone on a few occasions.

11 Q Am I correct that ultimately a final
12 report in connection with the cleanup conducted by
13 Cerro Copper was submitted?

14 A Yes.

15 Q Were drafts of those final reports
16 submitted to you for your review?

17 A Yes.

18 Q And did you, in fact, review those
19 documents?

20 A Yes, I did.

21 Q Did you ultimately approve the final
22 report?

23 A Yes.

24 Q Did you -- do you recall if you
25 similarly provided an outline to Cerro in terms of

1 how the final report should look?

2 A I think I might have.

3 Q Okay. Could you take a look at that
4 document that I have marked as Takacs No. 28, and
5 again, I apologize, I only have the one copy.

6 (Whereupon the Reporter marked Deposition
7 Exhibit Number 28 for identification as requested.)

8 A Yes, this is a very, very basic
9 outline of the -- for the final report.

10 Q (By Mr. Nolan) Do you recall how
11 your sending Cerro a basic outline for the final
12 report, how that came about?

13 A I believe I drew this up after
14 looking at what was required of Cerro in terms of
15 what Cerro had to submitted to us for this final
16 report as outlined in the consent decree. And this
17 outline was, I guess, my interpretation of what
18 Cerro needed to send. And I think that Joe had
19 asked me, I guess, kind of, you know, generally
20 what we were looking for and this is what I sent
21 them.

22 Q Okay. Joe would be Joe Grana?

23 A Yes, Joe Grana. Yes.

24 MR. NOLAN: If I could have two minutes
25 off the record.

1 (Whereupon, at this point in the
2 proceedings an off the record discussion was held,
3 which by direction was not stenographically
4 reported, after which the following proceedings
5 were conducted:)

6 MR. NOLAN: Thank you very much,
7 Mr. Takacs.

8 MR. RYDER: I have no additional
9 questions.

10 MR. MORGAN: We would like to reserve
11 signature.

12
13
14
15
16
17
18
19
20
21
22
23
24
25

1 STATE OF MISSOURI)
2) SS.
3 COUNTY OF ST. LOUIS)
4

5 I, MARY E. WALKER, CSR, RPR, Notary
6 Public in and for the County of St. Louis, State of
7 Missouri, do hereby certify that pursuant to
8 stipulation there appeared before me on the 7th day
9 of November, 1994, at the law firm of Coburn &
10 Croft, One Mercantile Center, St. Louis, Missouri,
11 PAUL TAKACS, who was first duly sworn by me to
12 testify to the whole truth of his knowledge
13 touching the matter in controversy aforesaid, so
14 far as he should be interrogated concerning the
15 same; that he was examined and examination was
16 taken down in shorthand by me and afterwards
17 transcribed upon the typewriter.

18 IN WITNESS WHEREOF, I have hereunto set
19 my hand and affixed my notarial seal on this
20 16th day of November, 1994.

21 *Mary E. Walker*
22 Mary E. Walker, CSR, Notary Public
23 Notary Public, CSR No. 084-003322

